



## DIVORCE AND COLLEGE PLANNING



The older the child in a marital dissolution proceeding the more likely the parents are concerned about college issues. Those issues can be addressed at the time of the divorce and incorporated into the divorce decree, or they can be left until later to be resolved by informal agreements.

Child support and medical support are obligations of divorced parents only until the child graduates from high school. Specifically, Minn. Stat. 518.54, Subd. 2 defines a child as “an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.” An obligor can also ask for relief from child support if the child becomes emancipated prior to turning 18 or graduating from high school. Minn. Stat. Sec. 518.64, Subd. 4a.

In Minnesota, emancipation is typically understood to occur when the child marries, joins the military or otherwise becomes financially independent from the parents. Financial independence is determined on a case by case basis and in the experience of this writer, is closely and narrowly evaluated by Minnesota courts.

Parents are free to agree to provisions relating to their college age children in their divorce decrees as part of their property, debt or maintenance provisions. In addition, Minn. Stat. Sec. 518.551, Subd. 5d permits the parents to designate a sum of money above any court-ordered child support as a trust fund for the future costs of postsecondary education.

For those parents interested in addressing college issues in connection with the divorce, there are a number of issues to consider, which include the following:

**QUALIFICATION FOR FEDERAL STUDENT FINANCIAL AID.** Federal student financial aid is based on need and is established by looking at both the student’s and parent’s (or parents’) income and assets. Income is based on the prior year’s tax returns and can include income from cashing in savings bonds, etc. Excluded from assets are the net equity of a homestead, the cash surrender value of life insurance, retirement accounts, and a cash

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### CHECKLIST FOR THE UPCOMING TWO MONTHS

- Provide/obtain end of the term report cards.
- Get ready to file tax returns. Need the forms for claiming dependency exemptions? See [www.irs.gov](http://www.irs.gov) and [www.taxes.state.mn.us/](http://www.taxes.state.mn.us/)
- Find out when spring parent-teacher conferences occur and what dates and times might work for both households.
- Confirm spring break and Easter parenting time schedules.
- Start thinking and talking about kids’ summer plan.

### FREE SEMINAR

#### THE VALUE OF A COLLEGE EDUCATION AND THE REALITY PAYING FOR IT

April 25, 2006  
4:30 p.m.—8:00 p.m.

Gateway Office Plaza  
Lower Level  
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*"The greatest gifts you can  
give your children are the  
roots of responsibility and  
the wings of independence"*

Dennis Waitley

The free application for federal student aid (FAFSA) form can be submitted after January 1<sup>st</sup> of the year the student starts college. It is required for most state and college aid as well.

The FAFSA form requires financial information from both the student and the parents unless the student is independent. To be considered an independent student for purposes of federal student financial aid, the student must be age 24 or older; working on a masters degree, doctorate program or graduate certificate; married; providing more than half the support for the student's child or other dependent other than a child or spouse; an orphan; a ward of the state before reaching age 18; or a veteran of the U.S. Armed Forces.

When the student's parents are divorced, the student must report the financial information of the parent with whom he/she lived the most during the 12 months preceding the date the application form is completed. According to the government website, it does not make a difference which parent claims the dependency exemption. See [http://studentaid.ed.gov/students/publications?completing\\_fafsa/2006\\_2007/faq.html](http://studentaid.ed.gov/students/publications?completing_fafsa/2006_2007/faq.html). If the student did not live with either parent or lived equally with each parent, the parental information must be provided for the parent from whom he/she received the most financial support during the preceding 12 months or the parent from whom he/she received the most support last time support was given. If the applicable parent has remarried, the stepparent's information must be included.

Depending on a family's circumstances, there can be more ins and outs to filling out the application than discussed above or to qualifying for aid. There are a number of helpful general sources on the internet such as:

[www.studentaid.ed.gov](http://www.studentaid.ed.gov) - information on federal financial aid and instructions for filling out the application.

[www.fafsa.ed.gov](http://www.fafsa.ed.gov) - internet application for federal financial aid.

[www.getreadyforcollege.org](http://www.getreadyforcollege.org) - Minnesota website with general information on getting ready for college.

[www.mnscu.edu](http://www.mnscu.edu) - website of Minnesota state colleges and universities.

[www.ohe.mn.us](http://www.ohe.mn.us) - website of Minnesota Office of Higher Education.

[www.act.org](http://www.act.org) - college locator and register to take ACT test.

[www.sat.org](http://www.sat.org) - college locator and register to take PSAT and SAT test.

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*"Education's purpose  
is to replace an empty  
mind with an open  
one"*

Malcolm S. Forbes

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In addition most high schools and some financial institutions sponsor frequent seminars on financial aid. Financial planners may also offer assistance on college funding.

**ALLOCATION OF ANY TAX BENEFITS ARISING FROM THE CHILD'S ATTENDING COLLEGE.** Tax benefits potentially available to parents of a college age child include filing status of head of household, the dependency exemption for the child, the Hope Scholarship credit, the Lifetime Learning Credit and interest deductions for some student loans. Some types of property, such as Roth IRAs, may have more favorable tax consequences if used for college expenses than if used for another purpose.

**MEDICAL INSURANCE.** Most medical insurance companies have specific requirements for children who are no longer minors to continue to be considered dependents for the purposes of continuing medical insurance coverage. Typically, the child must be enrolled in postsecondary education at a given number of credits. If a high school graduate will not be attending postsecondary education, that child may need to find individual coverage.

**LIFE INSURANCE.** Some divorce decrees require the payer of child support to carry life insurance to secure payment of child support in the event of the payer's death. It is possible to agree to extend this coverage beyond a child's minority, and if this is done, some consideration should be given as to the proper beneficiary. A child who has reached the age of majority will receive the life insurance proceeds outright. Another option would be establishing a trust to be administered for the purposes of paying for a postsecondary education and distributing the balance once the child has graduated or reaches a certain age. In this case, the trustee would be named as beneficiary of the life insurance.

**TRANSFERRING CAR TITLES AND IMPACT ON CAR INSURANCE.** A car owned by a parent or co-owned with a student can be carried on a family car insurance policy, qualifying the student for a multi-car discount and sometimes other preferred rates. A car owned solely by the student will require an individual car insurance policy in the student's name only.


**EXTENSION OF V.A. OR SOCIAL SECURITY BENEFITS DURING COLLEGE.** A student who has been receiving dependency benefits due to a parent's receipt of Social Security benefits will not continue to receive those benefits after graduating from high school. Some V.A. dependency benefits maybe available to college age students. For more information see [www.vba.va.gov/survivors/index.htm](http://www.vba.va.gov/survivors/index.htm) or call 1-800-827-1000.

**IMPACT OF PARENTS' CONTRIBUTION TO COLLEGE AND OTHER EXPENSES FOR THE CHILD ON PROPERTY, DEBT AND MAINTENANCE ISSUES.** None of the statutory factors for division of property or debt in a Minnesota divorce includes the needs of college bound children. Typically, in a spousal maintenance case, the needs of college bound children are not given the priority that is given to supporting minor children.

Parents could agree that the needs of college bound children should be considered in making these financial decisions.

The broad discretion afforded to the Court in property and debt divisions could be the underpinning of an argument that it is fair and reasonable to allocate property taking into account the needs of a college student or that is a reasonable item in a parties' budget to be considered in making a maintenance decision.

For any family trying to fund a college education, the earlier the planning starts the better. The event of a divorce should precipitate at least some consideration of college funding as some of the issues that need to be decided may impact various aspects of supporting a college bound student.



*"Luck is a matter of  
preparation meeting  
opportunity"*

Oprah Winfrey



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