Planning for Higher Education in Divorce

Don’t let college planning become an afterthought

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Key points

- Divorce is an emotionally charged life event that may cause many to leave college planning as an afterthought
- High-net-worth families are not immune from the challenges of funding college and completing financial aid forms properly
- A quality practice for high-net-worth families is the completion of a divorce decree or property settlement agreement that includes understandable terms of college costs and funding obligations

Nearly half of all U.S. marriages—and more than half of all second marriages—end in divorce. There are many complexities that result from these breakups, particularly when children are involved. Decisions around the funding of college and completing financial aid forms properly can create many challenges for a divorced family.
And unfortunately, high-net-worth families are not immune from these concerns.

Specifying college funding in the divorce decree

In cases where college funding is either voluntarily provided or issued as a result of a court or state mandate, a quality practice for high-net-worth families is the completion of a divorce decree or property settlement agreement that includes understandable terms of college costs and funding obligations. These agreements should include specific financial responsibilities for both parties in an effort to reduce confusion during the college years. More specifically, funding that defines tuition, room and board, books, and miscellaneous fees at a detailed level is important to creating a clear expectation as part of the divorce proceedings. Challenges can arise when the decree or property settlement agreement is not specific enough in regard to the expenses, such as identifying the institution type (private or public schools) and the level of collegiate pursuit to be funded (undergraduate only, up to masters, or through doctoral study). It's also important to account for inflation increases and future cost projections for any of these types and levels of college costs; this can be done by reviewing historic inflation data on tuition, fees, and room and board through the U.S. Department of Education or by examining the higher education price index (HEPI).

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Investment and trust considerations

The specific investment vehicles utilized, the associated titling, and protection of assets are important planning considerations when defining costs during occurrences of divorce. Awareness of other family members who have contributed to your children's college funding can be helpful to avoid circumstances where the collective funding efforts are over or under funded relative to the resources needed for education. All of these variables can play a role and may have consequences on taxes, gifting strategies, and possibly financial aid.

To complicate matters further, high-net-worth families with minor children often have existing investment accounts designated for college at the time of the divorce. The ownership of these accounts, post divorce, could be a concern if the spouse who maintains (or gains) ownership of the assets decides to utilize the funds for something other than the child's education. Before ownership on the existing investments is established, consider language within the decree or property settlement agreement that provides oversight on when these resources could be used (if any) for purposes other than education as a measure to mitigate unintended uses. Using the net price calculators will provide insight if the custodial parent will have any possibility of greater financial aid access in cases where he or she may either maintain or expunge ownership of the already established asset. Additionally, if there is a significant income disparity (and corresponding lower EFC) between the divorcing parties, consideration of a 51/49% custody split in favor of the lower-income parent could be favorable if joint custody is desired and financial aid maximization is a goal. Some colleges will use only the income of the custodial parent for their financial aid calculations.

Not only are there a variety of investment vehicles and considerations for existing and future investments, some families entertain the possibility of setting up a trust to fund education for existing and sometimes future generations. Trusts can be established in many different formats. Some trusts can be general in nature while others can be more restrictive, with specific parameters as to how the funds can be used for educational expenses. The type of trust and the state in which it is located and administered require careful consideration and should be discussed with an advisor to determine the strategy that is best for your family's particular situation.

Filling out forms: Financial and merit-based awards

All accredited colleges utilize (but do not require) the FAFSA while several hundred colleges use both the FAFSA and CSS Profile as the data portals that generate and determine both need-based aid and in some circumstances, merit-based awards.

The two forms (FAFSA and CSS) have variances when addressing families of divorce. More specifically, the FAFSA specifies that the parent who provided the most financial support is the party designated to fill out the FAFSA. If the divorced parents provide exact and equal financial support to the child, the parent with the larger income and assets is the parent that completes the form (along with the information of a new spouse if applicable).

The CSS Profile asks for more details than the FAFSA, and it also asks for the information from both the custodial and noncustodial parent (and their spouses if remarried) – regardless of who provides more financial support to the child. On the occasion that a parent refuses to cooperate and complete the CSS Profile, the participating parent can contact the financial aid department for guidance on how to proceed. Mandatory cooperation by both parents should also be required in the property settlement agreement or divorce decree.

Sometimes life's circumstances do not neatly fit into a box on either the FAFSA or CSS—especially in the cases when a divorce is not complete and child custody or financial support is in flux. For these cases and questions, the parent should contact the financial aid department at the colleges under consideration for guidance and professional judgment.

Moments of divorce are often emotionally charged life events that many times leave college planning as an afterthought. To avoid the pitfalls of the afterthought, a quality divorce decree or property settlement agreement that addresses college funding in concert with an understanding of the financial aid process can go a long way to providing the financial support your child will need during the college years.

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As part of the Wilmington Trust Emerald Family Office & Advisory® team, Jerry creates and facilitates customized family workshops for family members seeking engagement and preparation for the present and future roles within their families. These workshops are designed to assist families with communication, personal legacy planning, wealth transition, and financial education. Families exit this experience with a vision for what is possible for their family, including but not limited to a list of common values, a deeper understanding of one another, and most importantly a path forward for what they hope to achieve together.

Additionally, Jerry provides research-based information for Wilmington Trust's clients on the many financial and nonfinancial choices and paths available during the education selection process. The educational roadmaps provided by Jerry to parents, grandparents, and students help to establish a sound educational foundation for young adults as they transition from scholarly students to productive members of the world of work and citizenry. Jerry has more than eighteen years of banking and finance experience.

Jerry is a Certified Financial Therapist-Level I™ Practitioner (CFT-I). As a CFT-I, he helps clients think, feel, and behave differently with money and improve overall well-being through evidence-based practices and interventions that aim to resolve underlying issues limiting self-growth, happiness, and financial wellness. He holds an Ed.D. in educational leadership and administration from D'Youville College; two master's degrees from SUNY Buffalo in urban policy and school counseling; and a bachelor's degree as a University Scholar from Xavier University.

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