

## **FINANCE 101: Allocation of College Expenses in a Divorced/Separated Family**

Given the current economy and skyrocketing college costs, determining how to pay for children's college expenses can be difficult enough these days in an intact family. This issue is made all the more difficult when the parents are divorced or separated.

The best way to address this issue is to discuss the matter ahead of time and come to an agreement in writing well in advance of the child even beginning the application process. Sometimes, however, this is not possible and the parents are forced to seek court intervention to determine the issue.

Absent an agreement between the parents, an award of college expenses can be made by a court if the court determines that the circumstances of the particular case and the child's best interests warrant an order directing the parents to contribute toward college expenses. In making this determination, the court looks at several factors, including, but not limited to, whether the parents attended college, whether there was an expectation that the child would attend college and the child's aptitude. In most instances, the court will determine that an award of college expenses is appropriate; however, the question still remains as to how those expenses will be allocated between the parents.

As an initial matter, most courts will require the child to apply for any and all available financial aid, including grants, scholarships and loans. The court will then examine the respective financial circumstances of each party to determine each parent's ability to contribute to the remaining expenses. Ordinarily, the court will determine each parent's proportionate share of the combined parental income and assign responsibility to each parent for that percentage of the unpaid expenses. Ordinarily, this will include room, board, tuition, books, lab materials, fees and the like.

If an award is made which includes payment for room and board, the parent who is currently paying basic child support can ask the court for a credit reducing that basic child support payment, as that payment also includes housing and food in its make up. It will not, however, eliminate the basic child support payment altogether.

If it is at all possible, it is best to reach an agreement with regard to these expenses ahead of time without court intervention. In coming to an agreement, there are several concepts that parents can utilize to ensure that both parents and the child are comfortable with the outcome. The parents can agree to "cap" their responsibility at a certain level (e.g. costs in effect for SUNY Albany at the time the child applies for college), which gives each parent a better idea of the financial obligation they are agreeing to ahead of time, and thereby reduce conflict later on. The parents can also agree that they must each be party to the discussion regarding which school the child will attend and agree on that issue before financial responsibility attaches. This ensures that each parent has "bought in" to the process and is aware of the level of school the child is considering.

In all instances, parents should remember that this is a very exciting and nerve-wracking time

for their child, and primary attention should be paid to ensuring that the child does not feel that they are creating conflict between the parents or are creating a financial burden on either parent. Consider it an investment in your child's future and remember that, at the end of the day, it is about them, this new adventure, and this very exciting time in their life.