

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[John Narron](#) is a Board Certified Family Law Specialist and has been practicing law in North Carolina since 1977, with a practice concentration in all manner of civil disputes that frequently involve complex equitable distribution proceedings, alimony trials, will caveats, employment disputes, personal injury trials and negotiations, and a wide variety of commercial business disputes. John has served as a mediator in more than 200 family law disputes in Wake County, Franklin County, Johnston County, Wayne County, Guilford County, Forsyth County, and Pender County.

Who pays for the children's college in a divorce?

March 27, 2013 | by

When couples with minor children separate, they frequently have significant discussions and negotiations about the moral obligation that both parties have to provide financial assistance for their children's college education. In North Carolina, divorcing parents have no legal obligation to support a child beyond age 18 or high school graduation. However, many parents recognize a moral obligation to pay all or a portion of their child's college expenses.

When a couple separates, the parent with the more sizeable income is frequently expected to agree to pay all or most of the college expenses. However, the court cannot make them do so, and if they do agree to such an obligation, both parties must full consent in the form of a Consent Agreement. When the parties do agree to pay college expenses for a child beyond the age of 18, they have then created a legal obligation that did not exist before. Consequently the lawyer representing the party who is undertaking such an obligation must be very careful in crafting the terms of the language that is used in the agreement defining the obligation.

Typically most college expense payment agreements are very specifically defined and limited to reasonable room, board, tuition, books, and even perhaps reasonable transportation. Further, it is usually limited to a period of four or five years following high school graduation.

A recent North Carolina Court of Appeals case involved a claim by some adult children against their father for their room, board, and tuition when they were in their mid-20s. In that case, the daughter had actually married and was living in a home that she and her husband purchased but was still insisting that her father provide room and board to her since she was attending local college as a day student. Likewise, the son, had never gone to college full time but was still insisting that his father pay a portion of his room and board since he was attending college part time online.

The problem in that case related back to the original Separation Agreement signed in January 1989. To say the least, the agreement was poorly drafted in that it did not limit the father's obligation to pay tuition, but instead said that the father "would be

responsible for the payment of any and all expenses necessary for the education of either of the minor children should they desire to attend a school beyond high school.” The language did not limit or define the expenses that were to be paid and, most importantly, did not have a termination date as to when the father would no longer be obligated for such payments. Fortunately, for the father, the Trial Court and the Court of Appeals applied reason and logic to the 1989 agreement and determined that the father had no obligation to pay room and board for his adult children under those circumstances.

To avoid having to litigate such a contentious issue well into the future, parties who are separating will be well-served to carefully decide their legal obligation to pay educational expenses for a child beyond high school, and if they agree to do so, they need to carefully define what the obligation is and put a termination date on the obligation.

CONTACT US

919.250.2000
mail@smithdebnamlaw.com

RALEIGH OFFICE

The Landmark Center
4601 Six Forks Road, Suite 400
Raleigh, NC 27609

Phone: 919.250.2000
Fax: 919.250.2100

CHARLESTON OFFICE

171 Church Street
Suite 120C
Charleston, SC 29401

Phone: 843.714.2530
Fax: 843.714.2541