

## How Can I Locate a Lawyer?

Call the Pennsylvania Bar Association Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under "attorneys" for more details.

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# Collaborative Law

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If you're facing a legal dispute but would like to avoid going to court, consider Collaborative Law. Collaborative Law is a dispute resolution process that is an alternative to litigation. Each party hires a collaboratively trained lawyer, and both you and your respective lawyers all meet together to work things out face-to-face. Both of you will have your lawyer by your side so you will have their support and legal advice throughout the process. You both sign an agreement that commits you to resolve the issues without going to court and prevents the lawyers from representing you in court if the collaborative process breaks down. That means everyone involved is absolutely committed to finding the best solutions by agreement rather than through court proceedings.

Collaborative Law is different from other alternative dispute resolution processes. Unlike mediation where the mediator is neutral, each party still receives individual representation. Unlike arbitration where an arbitrator makes a final and binding decision, the parties make decisions by mutual agreement. Collaborative lawyers are available to discuss your individual situation and to explain the court and non-court processes that are available so that you can determine which process is right for you.

## What Is Collaborative Law?

Collaborative Law is a voluntary dispute resolution process in which you negotiate an agreement without going to court. Both parties sign a collaborative participation agreement describing the ground rules and expectations of the process. You voluntarily disclose all information relevant and important to the matter that must be decided. You agree to use good faith

Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

## Consumer Legal Information



Pamphlets

by the

PENNSYLVANIA BAR ASSOCIATION

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in negotiations to reach a mutually acceptable agreement. Each of you must be represented by a lawyer whose representation terminates if either of you undertakes a contested court proceeding.

By agreement you may engage mental health and financial professionals or other experts as needed to address specific concerns. For example, couples in a divorce may hire a collaborative coach or child specialist to help address emotional issues, or if you have a real estate dispute, you may agree to jointly hire an appraiser to value the real estate.

## **How Does Collaborative Law Differ from Mediation?**

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In mediation, the mediator is a neutral third party who does not give either of you legal advice and will not side with either of you. The mediator's role is to facilitate the discussion and the mediator has a duty to advise you each to get separate legal advice. Any agreement made in mediation is only binding after you've each had the opportunity to obtain individual legal advice and to have the agreement transferred into a legal format. The mediator cannot prepare the final documents or finalize the process.

In the collaborative process, each of you has your own lawyer who can advise you throughout the process. The collaborative process can be preferable to mediation if you want a lawyer by your side during negotiations, if you are unsure about subjects to be negotiated or if you feel vulnerable in the presence of the other party. If you reach agreement, your collaborative lawyer can prepare the legal paperwork required to finalize the agreement.

## **How Does Collaborative Law Work?**

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When you decide to pursue a collaborative process to resolve a dispute without going to court, you and the other party each hire lawyers trained in Collaborative Law. Both parties sign

a participation agreement detailing the rules and expectations of the collaborative process. The collaborative lawyers sit together with both of you in face-to-face meetings to identify and address issues in need of resolution. You may jointly hire professionals who have expertise to address specific concerns. The lawyers focus your meetings on problem-solving and making plans for the future, rather than casting blame or making accusations for what may have happened in the past. You brainstorm possible solutions and together select mutually acceptable options. Resolution on each issue is documented in the notes of the meeting. After you come to agreement on all the issues, a comprehensive agreement is drafted by the attorneys and reviewed by the parties for final approval. The lawyers then work with you to finalize the legal process.

## **Why Would I Choose Collaborative Law?**

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Thousands of individuals around the world have chosen Collaborative Law for the following reasons:

- To preserve their relationship with the other party
- To negotiate respectfully in good faith
- To share information voluntarily and completely
- To maintain privacy and confidentiality
- To use legal resources and expenses efficiently
- Because you schedule meetings and control the pace, not the court
- Because you control the outcome by mutual agreement, not the court

## **What Type of Disputes Can Collaborative Law Resolve?**

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Collaborative Law is used most widely throughout the world in family matters such as

divorce, custody, guardianship and prenuptial agreements. It also has been used in other legal disputes including closely-held and/or family business disputes, probate and estate disputes, employment disputes and real estate transactions.

## **What Happens if We Can't Come to an Agreement?**

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The International Academy of Collaborative Professionals has found that almost 90 percent of reported collaborative cases resulted in agreement. If necessary you can use a mediator or arbitrator to help resolve specific issues within the collaborative process. However, if one of you chooses to go to court the process must end, all collaborative professionals must withdraw and new litigation counsel must be retained. This is a decision made only after exhausting your best efforts.

## **How Do I Know Which Process Is Best for Me?**

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The first step is to meet with a collaborative lawyer to review your options. To decide which process to use, you need to decide what is most important to you in finding a solution to the issues you need to resolve. You also will want to identify your major concerns and which process can best serve to address those concerns.

## **How Do I Find a Collaborative Law Practitioner?**

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There are collaborative law practice groups and lawyers throughout Pennsylvania. You can find them by searching the Internet under "Collaborative Law" or "Collaborative Practice." The International Academy of Collaborative Professionals ([www.collaborativepractice.com](http://www.collaborativepractice.com)) lists collaborative professionals by state.