

Collaborative Law – Why?

We want to help people understand that there is an entirely different way to reach a resolution in their legal matter.

ARFLP Rule 67.1

- Must sign a Collaborative Law Participation Agreement (also called a Collaborative Commitment Agreement or CCA).
- Each spouse must be represented by a collaborative lawyer.
- Collaborative process can be terminated by either spouse by giving written notice or initiates litigation.
- If process is terminated, a collaborative lawyer is disqualified from representing a party in a litigated action (limited exception for emergency).
- Must give court notice of participation in collaborative process.
- Standards of Professional Responsibility and mandatory reporting apply.
- Lawyer must screen to determine if collaborative process is appropriate. Cases with DV are not automatically excluded.
- Collaborative law communications are confidential, privileged, not subject to discovery, not admissible in evidence (with some limits/exceptions).

Collaborative Divorce

FEATURES

Each spouse gets their own attorney trained in collaborative law

All parties sign a participation agreement

Series of meetings with attorneys and other professionals to reach settlement

Each attorney advises their client on legal matters

Experts brought in for finances and children

A family communication specialist facilitates meetings

If agreements reached, a consent decree is drafted

Collaborative Law vs. Litigation

Litigation: You vs. Me

- Someone wins, someone loses
- Marital, business or personal estate is divided
- Attorneys are the beneficiaries of most people's estate plans
- Conducted based on Court Rules
- Conflict-based

Collaborative Law: You and Me

- Both people win
- Marital, business or personal estate is reorganized, redistributed
- Attorneys' fees are paid as a requirement of the process
- Conducted based on what the family, business or person actually needs.
- Resolution-based.

Collaborative divorce may be an option to explore further if *some or all* of these conditions apply:

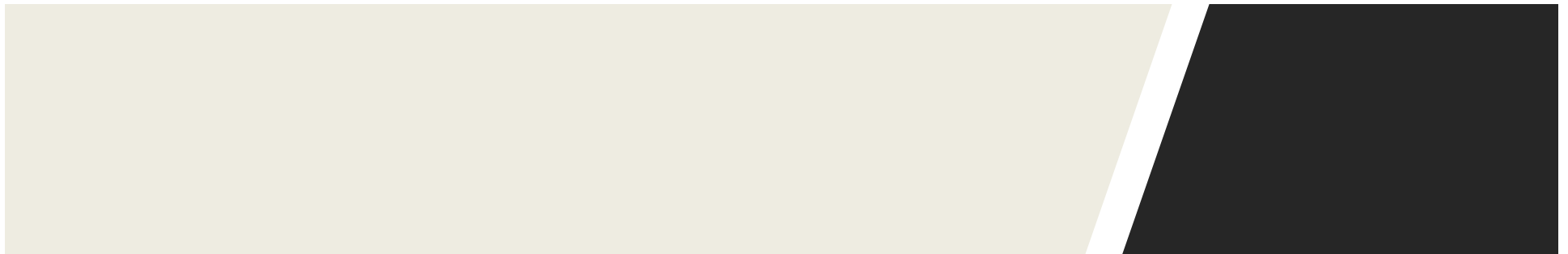
The complexities of the case are medium to high

Both parties are both willing to use this method to try to avoid litigation

The parties want legal advice and an advocate to represent them

There is nothing legally preventing them from being able to interact with the other spouse like Domestic Violence

They are willing to risk having to start over with new lawyers if the collaborative process is unsuccessful





Professional Roles

Each party is represented by their own, collaboratively trained attorney that advises them on legal issues.

Attorneys work collaboratively not to win, but to achieve settlement



Attorneys

The financial neutral serves as the parties' joint expert. Several financial neutrals can offer insight on business practices in the case of a business dissolution or divorce of self-employed person.

Financial neutral can act as a mediator when there are complicated financial decisions to be made and the couple can't agree. Simply by offering numbers that back up or contradict a position, a financial neutral can "sway" the clients.



Financial Neutral

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- Act as a neutral party in gathering financial information
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- Verify the financial information
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- Determine additional information required
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- Gather financial information, properly value assets, small businesses, etc.
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- Distribute Financial Report to clients and attorneys
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- Evaluate and discuss potential tax consequences
-
- Illustrate scenarios of settlement proposals

Role of Financial Neutral



Qualifications for Financial Neutral

Neutral Financial Professional Qualifications

- Trained in Collaborative Divorce
- Certified Divorce Financial Analyst (CDFA)
- Certified Financial Planner (CFP)
- Trained in Mediation
- Experienced in Collaborative process

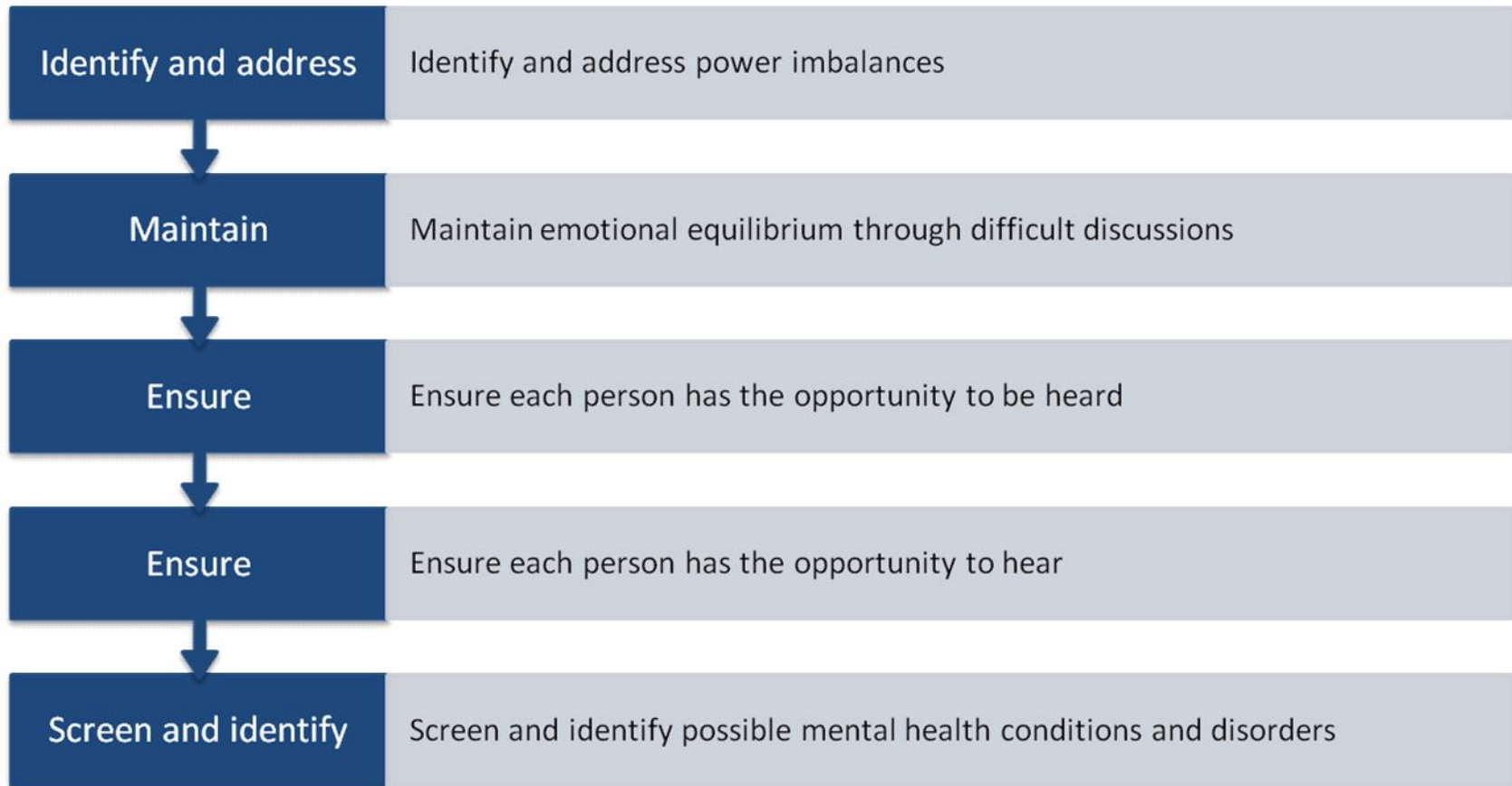
Common “jargon” is that a communication specialist is a coach. The coach, or communication specialist, is a mental health professional trained in collaborative process. They are licensed as a psychologist or therapist, but they do not assume a therapist role. It will feel to the client at times that the coach is actually a therapist.

The Communication Specialist may meet with the clients independently of the full team collaborative process meetings.

There may be one client per Communication Specialist, but there also may be one Communication Specialist for both clients. It depends on the needs of the case. Each case is very different.



**Coach / Communication
Specialist**



Coach / Communication Specialist Role



Qualifications for Communication Specialist / Coach

- Trained in Collaborative Divorce
- May be trained in Mediation
- Experience with Collaborative Process / Collaborative Divorce
- May be a licensed psychologist or a licensed therapist.

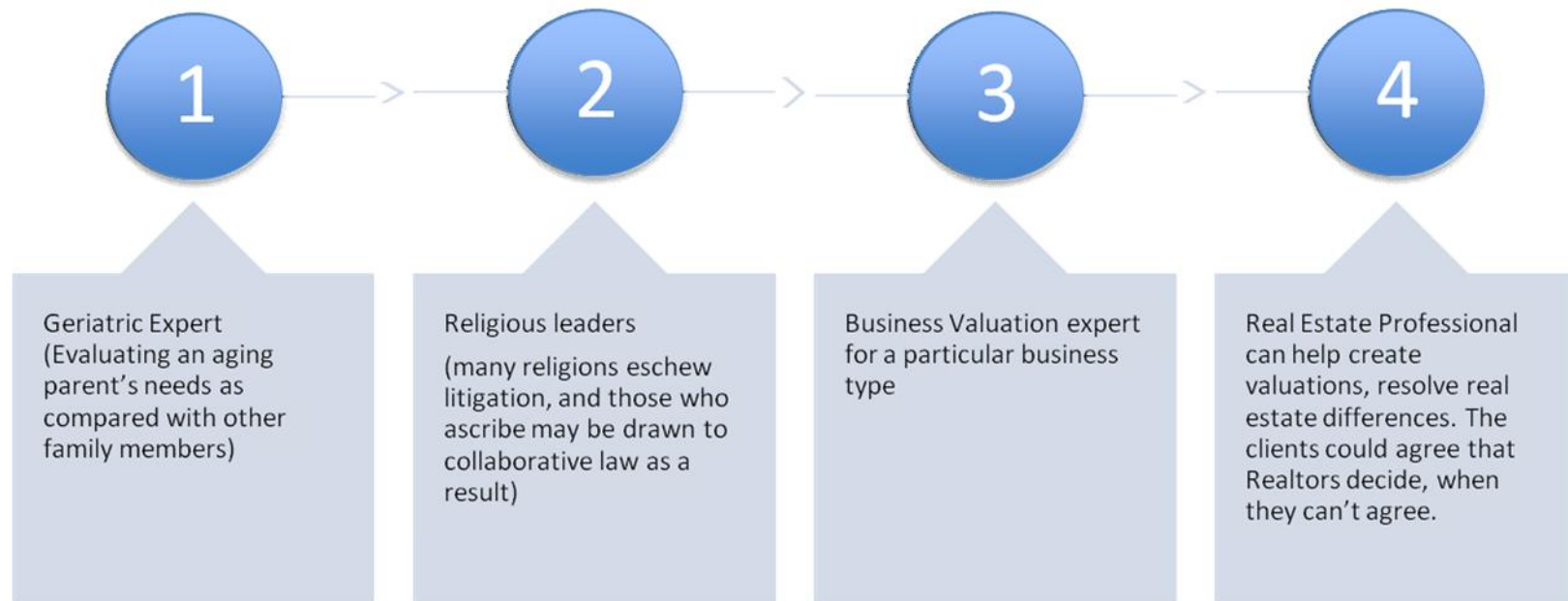
A child specialist can meet with children and act as an information-gatherer and translator, in a sense.

Parents are often clouded in judgment and emotion during a divorce. It is hard to work through your own emotions, let alone put yourself in your child's position.

A child specialist can describe for parents what the child's experience is. Every child is different.

Daniel J. Gaughan: "The child specialist gives the children their own voice during the divorce process and helps both parents identify and focus on the needs of their children."

Role of Child Specialist



Other Potential Experts

Lawsuits Your Clients May Be Involved In:

1. Divorce
 2. Child Custody
 3. Legal Decision-Making or Parenting Time
 4. Child Support
 5. Relocation of a Child (or with a Child)
 6. Adoption or Termination of Parental Rights
 7. Will or Trust Contest
 8. Guardianship of a Loved One
 9. Conservatorship of a Loved One
 10. Probate Court
 11. Business Litigation
 12. Drafting an Estate Plan In a Conflict
 13. Civil Litigation
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Collaborative Process may be an option for your clients.

**Collaborative Law is not
Just for Divorce**