

SEPARATION AGREEMENT DISCUSSION GUIDE



This Separation Agreement Discussion Guide was designed for clients of Whole Family Law and Mediation. It was created to help facilitate clients' understanding of the various considerations that must be made during the divorce process, help clients identify their goals and interests, and help facilitate the "offline" or at-home homework and discussions between spouses about the terms of their separation agreement. This resource is not to be considered legal advice. It is not to be reproduced or distributed in any form

SECTION I

The Uncontested Divorce Process

In an uncontested divorce¹ (in contrast to a litigated divorce), the process usually begins with the couple working with the mediator or as part of a collaborative or cooperative team to determine terms that will eventually comprise the legal document called a divorce agreement or separation agreement (described in more detail in Section III). This process can take anywhere from a few weeks to a few years, depending on the needs of the people involved, the level of conflict, the issues to be decided, and other relevant circumstances. During this process each person involved is expected to make a full disclosure of all of their assets, income, expenses and liabilities, so that the decisions that each person makes as part of the divorce process are informed.

Once the terms of the agreement are decided and the Agreement drafted, the mediator or attorney will prepare the following documents, which will be submitted and filed with the Court:

- 1) Cover letter with request for hearing
- 2) Joint Petition for Divorce
- 3) Joint Affidavit of Irretrievable Breakdown of the Marriage
- 4) Form R-408
- 5) Affidavit of Disclosing Care or Custody Proceedings (if minor children)
- 6) Court Financial Statement for each of the parties
- 7) A statement of asset distribution (optional)
- 8) Child Support Guidelines (if minor children)
- 9) Parent Education course completion certificates for each parent (if minor children – this is to be provided by the parents)
- 10) Divorce Agreement
- 11) Filing Fee (\$215.00) – may be waived by the court upon a finding of indigency

Once the agreement is filed with the Court, the Court then “dockets” (numbers & processes the file) the Petition and assigns a judge to the matter. The Court also assigns your case for hearing or “1A” trial, usually about 2-6 weeks after your Petition is filed (depending on the Court Division).

At your hearing, the judge review your agreement, your financial statements, and the child support guidelines, and then will ask a series of short questions about the circumstances of your marriage and separation, your children. If you have attorneys

¹ Note – for general information about in Massachusetts, including an overview of the statute, grounds for divorce, terms, and timelines, the following websites provide clear and concise information: <http://www.massachusetts-divorce.com/divorce-terminology.htm> and

with you, the Judge may ask the attorneys to summarize the agreement. The judge will then ask you some questions about your understanding of the divorce agreement and your belief that the agreement is fair and reasonable. At the conclusion of the 5-7 minute hearing, the Judge will make a finding that the agreement is fair and reasonable and not the product of fraud or duress, and therefore a judgment of divorce “nisi” will enter in thirty days and will become “absolute” or final 90 days after that (so 120 days after hearing).

SECTION II

The Anatomy of a Separation Agreement – An Overview

At the center of an uncontested divorce process is a “separation agreement” – sometimes called a “divorce agreement.” A separation agreement is a legal contract between you and your spouse that outlines what happens with your property, your finances and your children after the divorce. You and your spouse will present this agreement, along with a financial affidavit (financial statement) that states your income, expenses, assets and liabilities under oath, to the court at the time of your divorce hearing. As noted above, a judge will review your agreement along with your financial statements, and after asking you and your spouse a number of short yes/no questions, the Judge will generally find the agreement to be “fair and reasonable” and “not the product of fraud or duress”. The Judge will then “incorporate” your Separation Agreement into the Judgment of Divorce (essentially endorsing the Agreement terms as if the Judge had made the decision herself), making it enforceable as a court order.

In Massachusetts, your separation agreement generally will be comprised of a preamble portion, containing some of the general legal acknowledgments, as well as a series of “Exhibits” which are incorporated by reference into the first legal contract section. These Exhibits can include:

- 1) Child Custody and Parenting Time
- 2) Child Support
- 3) Post-Secondary Education of Children
- 4) Spousal Support/Alimony
- 5) Health Expenses and Insurance
- 6) Division of Real Estate
- 7) Division of Other Property (including pensions, retirement accounts automobiles, other motor vehicles, and personal property
- 8) Division of Liabilities
- 9) Life Insurance
- 10) Taxes (including child deductions, mortgage interest deductions, filing status, and payment of past and future taxes)

Not all of the above topics will be relevant in every case, but each area should be carefully examined and discussed.

SECTION III

Separation Agreement - Child Custody

If you have minor children, your divorce agreement will specify your agreement with your spouse with respect to two kinds of custody – *legal custody* and *physical custody*.²

- **Legal Custody**: Legal custody is the ability of a parent to make major life decisions for a child, such as the child’s religion, education, elective medical procedures, travel, etc. If parents agree to share legal custody, they are committing to using good faith efforts to agree on of these major life decisions for the child(ren). Both parent’s signatures may be required on such documents as school forms, loan applications, health care decisions. Both parents must consent to any visa applications and international travel. With shared legal custody, both parents may review all dental, medical and school reports, and other reports or written communications concerning the welfare of the child(ren) without obtaining the permission of one another, each may consult with individuals providing medical, psychological, dental or educational services for the child(ren) and each may attend or participate in any activity or event involving the child(ren) (including recitals, performances, sporting events, games and practices, school events and such) whenever they wish without permission from one another. Most parents share legal custody unless there is a significant reason not to do so. Parents can agree to share legal custody, but still give one parent primary decision-making powers for daily life issues such as education and medical care.

- **Physical Custody** relates to where and with whom children primarily live and how often/when the children sees each parent. It is a term that is losing favor in the courts and among many family lawyers, who prefer to talk about “primary residence” and “parenting time,” however physical custody is still the term defined in the relevant Massachusetts statute. If children primarily live with one parent, that parent is said to have physical custody or primary physical custody of the children. Parents can also agree to joint or shared physical custody of their children. The parenting plan in the separation agreement details the specific schedule or agreement between the parents with respect to the time the child(ren) will spend with each parent. If parents share joint custody then child support is calculated according to a different formula than if one parent has primary physical custody.

Considerations to make when negotiating custody and a parenting schedule:

- Are you in agreement with your spouse (or able to reasonably come to agreement) about important aspects of your child(ren)’s life, including religion, education, travel and medical care?
- Is one of you in a better position, because of work, location, skills or schedule, better able to care for your child(ren) during particular times of the

² Note- Many states, including Massachusetts, are beginning to move from the idea of “custody” to the idea of “primary residence” and “parenting time.” These terms capture more accurately the nature of shared parenting after divorce, but the statute in Massachusetts still hasn’t caught up with this evolving understanding.

- week, or do you have more room in your house for your children?
- What is your child(ren)'s schedule during the week – how might this influence how you divide your time with the child?
 - What is your child(ren)'s relationship with each of you now? How do you want that to stay the same? How do you want that to change?
 - Who has been primarily taking care of your child(ren) up until the separation? This does not dictate what happens in the future (as each spouse will be taking on new parenting roles), but can be helpful information.
 - What do you envision as your spouse's and your time with your children on weekdays and weekends?
 - What will happen for long weekends? School vacations, holidays, summers and other special events?
 - When the children are not with each of you, how will they keep in contact with the other parent?

Other parenting issues to discuss:

- How will you make decisions about your child(ren)'s academic, health, and social needs?
- How will you exchange information about your children with your spouse?
- How will you resolve disputes should they arise later - such as by utilizing a family therapist or family mediator?
- How will you each provide notification and/or arrangements for out-of-state travel with your child(ren)
- Would you tolerate permanent removal of your children from Massachusetts (if either of you wants to move out of state).
- Other parenting issues – some of these you may want in your agreement, others you may consider writing up in a memorandum of understanding between you:
 - What do we hope for our children as they go through this transition?
 - What do we value for them regarding education, activities, friendships, access to opportunities?
 - How are we going to make decisions about their academics?
 - How are we going to make decisions about discipline?
 - Does our child have special learning or life needs about which we need to be mindful, and how are we going to make decisions about this together?
- You may also want to discuss other issues that are not specifically related to your children, but are related to co-parenting, such as introduction of new significant others or the children's relationship with extended family members – these may or may not go into the final agreement, but are helpful to discuss before any conflict around these issues becomes unmanageable.

TALKING ABOUT PARENTING TIME/CUSTODY:

- 1) Keep the needs of your child(ren) at the center of your discussions. Consult with your mediator, lawyer, or counselor to gain additional insight in this area where possible and necessary. When talking with your spouse about custody, sometimes keeping a picture of your child(ren) on the table can help focus the conversation.
- 2) Before you make a determination about where you want your child to live and what schedule you would like to make for yourselves, each of you should ask yourself the following questions:
 - a. How do I want our households to feel and function in three months?
 - b. How do I want our households to feel and function in one year?
 - c. How do I want our households to feel and function in four years?
 - d. What do I want my child(ren) to remember from this time in their lives?
 - e. What has our child(ren) been used to up until now?
 - f. What is most important to our child(ren)?
- 3) Consider whether you want to have drafted a schedule that is fixed or flexible. While the terms of your agreement relating to your children are always modifiable at a later date, the purpose of creating a schedule in your divorce agreement is so that you have an enforceable baseline that you can go back to in the event that you and your spouse do not agree on a schedule. Judges generally want to see some schedule that they can enforce. If you have no schedule in your agreement, you can always create one in mediation following your divorce, or you can appeal to the Court to create one for you. Think about your particular concerns and experiences in determining whether you want this section to be very general or very specific.
- 4) Do not forget to have discussions about how you will share things such as school holidays & summer vacations, along with how you will resolve conflict and make other difficult decisions together
- 5) CHECKLIST:
 - Your time with your children on weekdays and weekends
 - Your spouse's time with your children on weekdays and weekends
 - Schedule for long weekends
 - Schedule for school vacations
 - Arrangements for holidays and other special events
 - Arrangements for summers
 - Arrangements for telephone access
 - Decision-making for your children's academic, health, and social needs
 - Exchange of information between you and your spouse
 - Method of dispute resolution for later issues, such as therapy or mediation
 - Notification and/or arrangements for out-of-state travel with your children
 - Permanent relocation of your children from Massachusetts.

SECTION IV

Separation Agreement - Child Support

The Massachusetts Child Support Guidelines provide a formula for determining the presumptive amount of child support to be paid from a non-custodial parent to the custodial parent. This is based on an ‘income shares’ theory – that is, the guidelines try to approximate how much a couple might spend on raising a child, given their respective incomes, and require the higher income earner to pay support to the lower income earner as a way of sharing that total responsibility for raising the children. Depending on whether custody is shared jointly or one parent has primary physical custody, the amount of child support to be paid under the guidelines may be different. The guidelines are available online here <http://www.mass.gov/courts/childsupport/2013-child-support-guidelines.pdf>. Note that these guidelines are just that – guidelines. Parents can determine between them how much support is needed and reasonable under the circumstances, but the final amount must be within reasonable in light of the guidelines. If the amount deviates from the guidelines, your agreement will need to explain why the deviation is appropriate. You should read through these guidelines and familiarize yourself with the various issues to be determined relative to deciding the appropriate amount of child support to be paid, including:

1. Applicability of Massachusetts Child Support Guidelines

- a. Massachusetts Guidelines only apply technically to income up to \$250,000. Income above that is not subject to a formula calculation, but rather support is determined on a discretionary basis.
- b. Couples can always decide to deviate from the Guidelines amount for good cause – such as one spouse remaining in the marital home; the basis for any deviation from the guidelines just needs to be explained in the divorce agreement. NOTE, in general the Courts do not favor child support agreements that are under guidelines amounts, as by law a person cannot bargain away their child’s right to child support. However, if the Court finds that the child is receiving that support in other forms, the Court may allow a downward deviation under some circumstances.

2. Determination of “income” including base salary, overtime, bonuses

- a. Exactly what is included in a person’s income may be an issue to be determined through mediation or discussion – for instance, you may want to include bonus income that is received on a regular basis as regular income, or you may want to consider it outside income and treat it differently for the purposes of support.

3. Attribution of income

- a. The Court can find, based on evidence presented, that one person is earning less than what they reasonably could be or should be earning, and can ‘attribute’ to that person a certain income based on that finding.

Circumstances where attribution might be warranted include when one person is out of work and has a reasonable chance of becoming re-employed, or when one person is intentionally underemployed

- b. When negotiating an agreement, negotiation discussions may include whether one party will be able to earn a greater income than they are earning at that present time, and consider this income when determining the appropriate amount of support.
4. *Confirmation of cost of child care expenses and cost of health insurance*
 - a. The amount of and responsibility for paying child care and health insurance costs is relevant, as that cost is deductible from income for the purpose of calculating child support.
 5. *Adjustments to child support*
 - a. Parties can agree to adjust child support automatically each year (for instance, after exchanging tax returns or W2s) or at a certain point in a child's life, and can agree to do this without returning to Court.
 6. *Termination of child support & definition of emancipation*
 - a. Parties can decide between themselves when child support will terminate under the agreement – you may decide that support will terminate at emancipation as defined by Massachusetts law (see below, #7) or, due to certain circumstances (such as having a child with certain special needs) you may decide that child support will terminate at some later date. (Note – you may also decide to provide support to your children in ways other than child support)
 - b. Massachusetts law defines emancipation as 18 years old if a child is not enrolled in post-secondary education, not living with one parent and primarily dependent on that parent. If a child is living with a parent and principally dependent on that parent for support, then child support may continue to age 21. If a child is enrolled in post-secondary education and is domiciled with a parent and principally dependent on that parent for support, then child support may continue until age 23. The statute also defines other triggering events, such as when a child gets married, enrolls in the military. See
 7. *Payment of child-related expenses (i.e. extracurricular activities, clothing, etc.)*
 - a. Most often, couples agree to share other child-related expenses, such as camp, sports, art recreation activities, tutoring, etc. as the child support guidelines do not specifically cover these expenses.
 - b. When couples will agree to share expenses, neither one will be obligated to pay for any expenses initiated by the other without prior discussion. Couples may agree to whatever terms they decide with respect to these expenses.

TALKING ABOUT CHILD SUPPORT

- 1) Always keep in mind that child support is about the child – not about paying your ex- or to-be ex-spouse. It is not alimony. Child support is intended to remedy the effect of a split household, by providing resources to each parent so that they may provide adequate (and, ideally, comparable) experiences for the children. The guidelines provide an alternative formula for parents who are sharing time with their children equally or those who are sharing parenting between 50/50 and 60/40.
- 2) Remember that child support is intended to cover the cost of such things as the child(ren)'s housing, utilities consumed, clothing, food, and basic necessities. Parents may agree on their respective contributions to any extra-curricular activities or other costs in separate provisions.
- 3) Child support is not intended to cover the cost of uninsured medical expenses, although, according to the Guidelines, if a primary custodial parent is receiving support pursuant to the guidelines it is recommended that they pay the first \$250 annually of uninsured medical expenses for the child(ren), and the parents share equally any expenses over \$250.00 annually. Uninsured expenses include the cost of co-payments, deductibles, and uninsured procedures. By agreement, parents may vary from this presumption, such as deciding to share all expenses equally.
- 4) In Massachusetts, child support is based on all income received, from whatever source. Remember that what you may take as deductions on your federal or state income taxes may not (and are often not) deductible for the purpose of the child support guidelines. Similarly, income that you may not report on your taxes should still be considered when determining the appropriate amount of support to be paid.
- 5) Remember that the guidelines are only just that – guidelines. Just as the Court may deviate from the guidelines based on certain circumstances it finds relevant, so too may you and your spouse. The Massachusetts Child Support Guidelines handbook contains factors a court may consider when deviating from the guidelines – these may be helpful for you and your spouse/partner to consider how to best utilize your family's resources.
- 6) Remember that under Massachusetts Law, a parent is obligated to provide support for their child(ren), and a parent cannot bargain away their child(ren)'s right to support. While you and your spouse may decide to deviate from the guidelines, you must be able to support your decision with a clear and reasonable basis, so that the judge will understand and find your agreement to be fair and reasonable under the circumstances.
- 7) Remember that child support is always modifiable at a later date, by agreement of the parties or by order of the Court upon finding that there is a difference between the amount of support being paid and the guidelines. In addition, change of circumstances may impact support, such as one parent obtaining new employment for a greater or lower salary, losing a job, injury, significant new needs of a child, etc. Parents can also agree, in the divorce agreement, to have child support automatically modify according to any changes in income of the parents.

SECTION V

Separation Agreement - Post-Secondary Education

In your Separation Agreement, it is prudent to make decisions about post- secondary education (and, where appropriate, private secondary education) for your children. When children are young, these college provisions are often open-ended – for instance, you may agree to discuss post-secondary education during your child’s junior year in high-school, and share the costs based upon your respective abilities to pay, or you may agree to continue to contribute a certain amount to a 529 plan. You may decide that you want to write in that you expect your children to contribute something to their education, but wish to reserve discussion until such time as your children are considering colleges.

If your child/children are in their final years of high school, the agreements are often more specific.

Issues to consider when negotiating the terms of your education provisions include:

- What constitutes educational expenses? Tutoring? SATs? College visits? Application and entrance fees?
- How will you exchange information about college choices?
- Who will take the children to college visits?
- How will you decide where your child goes to college?
- How will you pay for college – contributions from spouses, children’s assets/income, 3rd parties, loans, grants?
- What impact, if any, will payment of college expenses have on child support? Will your child be considered emancipated if they live at college full time? What happens if your children choose to live away from home over the summer – will child support continue?
- Will either parent be considered the primary custodial parent for the purposes of financial aid applications?

SECTION VI

Separation Agreement - Alimony/Spousal Support

The standard for whether alimony should be paid in Massachusetts remains one spouse's need for support from the other spouse to live in approximately the same standard of lifestyle as prior to divorce, and the other spouse's ability to pay that support. To determine this, parties must take into consideration all of the factors listed in M.G.L. c. 208 §34. These can be found here:

<http://www.malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section34>

In addition to the above, in March of 2012 the Alimony Reform Act (Chapter 124 of the Acts of 2011 "An Act Reforming Alimony in the Commonwealth") was passed. It added Sections 48 through 55 to Massachusetts General Laws Chapter 208, clarifying considerations that must be made when determining alimony agreements, including the type of alimony, duration of alimony, how much alimony to be paid. This law defines types of alimony, duration of alimony, and gives direction as to how much alimony should be paid.

Note that, while child support is neither taxable nor tax deductible, alimony is tax deductible to the person who is paying it, and taxable as income to the person receiving it. Therefore, in cases where alimony is appropriate, couples may use the tax consequence/benefit in crafting creative resolutions that maximize resources available.

If you believe that alimony is appropriate in your circumstances, then the following are components to consider and on which you and your spouse must discuss and agree:

- What is the amount to be paid? What is the frequency of payment? How (what method) shall payment be made?
- When will alimony payments terminate - When? Under what circumstances?
- What effect, if any, will the employment of the recipient have on alimony?
- What effect, if any, will the remarriage of the recipient have on alimony?
- What effect, if any, will retirement of the person paying alimony have on the support?
- What happens if the payor dies?
- What are the intended tax consequences for payor / recipient?
- Will alimony be modifiable at a later date, or will it be fixed indefinitely? If modifiable, then when? Under what circumstances? How will this occur?

NOTE: if you believe alimony is appropriate for your family, you should consider speaking with a financial professional to ensure that you fully understand the tax consequences and obligations of alimony payments. You may also choose to explore whether an exchange of property in lieu of alimony may be more beneficial to either or both parties.

SECTION VII

Separation Agreement - Health Insurance and Health Expenses

People who are separating and divorcing must determine how children's health expenses and how their own health expenses will be covered following divorce, including who will provide health insurance coverage, who will pay for insurance coverage, how will uninsured medical expenses for the children be shared and until what point in the child(ren)'s lives will health insurance coverage continue?

Not all employers provide coverage for a former spouse, and some employers do provide this benefit but tax the benefit to the employee. Parties should consult with their employer to obtain all relevant information.

Health insurance costs are considered when determining the appropriate amount of child support to be paid under the child support guidelines.

Generally, if child support is being paid according to the Massachusetts Child Support Guidelines, then the parents share the cost of uninsured medical expenses, after the person who is receiving child support pays the first \$250 per year of expenses. Parents are always free to vary from this parameter, and craft an agreement that meets their unique needs and circumstances.

Things to consider when negotiating the health insurance provision of the divorce agreement include:

- Whether the parties' present insurance will be available to both parties after divorce?
- Whether there is an additional cost to insure a divorced spouse?
- What are the costs of coverage for one child, one child and a former spouse, two children?
- Who will be responsible for the costs of health insurance?
- Who will be responsible for the costs of co-payments, prescriptions, and other uninsured medical expenses?
- How long will the parents continue to provide coverage for children?
- What happens if health insurance is terminated?
- Will insurance be available if one party remarries?
- What happens if the cost of insurance goes up?

SECTION VIII

Separation Agreement - Real Estate

The division of real estate, including the marital home, is often a central consideration in a divorce agreement. Reasons why one spouse may wish to keep the marital home or to sell the marital home, include the financial circumstances of that parent, the needs of the child(ren) and the history of the parties' ownership of the property. The tax consequences of retaining or selling the marital home (such as whether or not a sale would result in capital gains) should be considered when negotiating this provision. Additionally, considerations such as the market, liquidity (or illiquidity) of the real estate as an asset compared with cash or retirement assets, and repairs that might need to be made to sell the home also are issues to consider.

MARITAL HOME:

Interim use of the marital home until the divorce agreement is fully negotiated must be decided. Considerations to make include:

- Who will have use and occupancy of the home?
- Who will be responsible for mortgage, utilities, insurance, taxes, upkeep/repairs, major repairs, etc:

If one spouse is going to keep the house and buy out the other spouse's interest, then issues to be decided include:

- When will the buyout occur (upon refinance? On a specific date, such as one child completing high school or college? Etc?)
- How the buyout amount be determined? Will contribution to the down payment be considered? How will the fair market value be determined?

If the house is going to be sold, then the following issues should be considered:

- Time frame for selling the house?
- Choice of real estate agent?
- How will you determine a fair price to sell?
- How will you decide about price adjustments, offers, marketing materials?
- Who will pay for necessary repairs, upkeep, improvements, maintenance of the house, while the house is on the market?
- Will the equity be kept in escrow following sale, or divided between spouses immediately upon sale?
- How will proceeds from the sale be allocated (will either spouse get credit for contributions to the down payment or acquisition of the home? Will the equity be shared 50/50? Etc.)

OTHER REAL ESTATE:

The same issues may be considered when determining how to divide other real estate, such as vacation homes, time shares,

SECTION IX

Separation Agreement - Other Assets and Liabilities

Massachusetts is an equitable division state, meaning that all assets owned by the parties at the time of the divorce may be considered as part of the total pot of assets to be divided at divorce. The division will be based on what is most fair under all relevant circumstances, rather than just a presumed 50/50 split. The factors that should be considered when deciding what is most fair under the circumstances are listed in the Massachusetts divorce statute, MGL c. 208 §34.

<https://malegislature.gov/Laws/GeneralLaws/PartII/TitleIII/Chapter208/Section34>

Property to be included in the overall division of assets, and the relevant issues to be determined, may include:

- Automobiles/Other vehicles
 - How will the value of the vehicles be determined?
 - Who will have use and ownership of the cars?
 - Who will assume any loans?
 - Who will pay expenses on the automobiles?
- Bank accounts
 - Who will retain any joint accounts?
 - Will the funds in the accounts be split or will one person retain them?
 - What date will be used to determine division of the accounts?
- Pensions/IRAs/Retirement
 - How will the accounts be valued (e.g. – will you use an actuary to determine the future value?)
 - Will the accounts be divided at the time they go into payment status – e.g. through a “Qualified Domestic Relations Order”
 - Does any future interest in the pension need to be insured?
- Businesses
 - If one or both spouses is self-employed or owns their own business, will the businesses be valued by a professional appraiser?
 - How will the business be divided?
- Shares of stocks, stock options?
 - Will these be valued as property, used as an income stream later?
 - If stocks are not assignable, can they be shared in another method?
- Art/Antiques/Jewelry?
 - How will these be valued? Divided?
- Other household items such as furniture, electronics, appliances

Division of Liabilities – liabilities, just like assets, must be divided at the time of the divorce. You and your spouse will need to determine who will be responsible for joint and individual liabilities, including any lines of equity, credit cards, 401K loans, personal loans, uninsured medical expense loans, etc.

SECTION IX

Separation Agreement - Life Insurance and Taxes

Life Insurance. Your divorce agreement may contain a provision requiring one or both parents/spouses to maintain a life insurance policy for the benefit of the other parent to support the children in the event of death. If alimony is to be paid by one spouse, then a life insurance policy may also protect the recipient spouse's support payments in the event that the payor spouse dies. Things to consider when negotiating this provision include:

- The availability of life insurance
 - Through an employer or private insurance carrier?
- Who will be responsible for payment of the life insurance policy premiums?
- What will the death benefit be?
- Will the benefit be paid to a trust or to the other parent directly?
- When will the requirement to maintain life insurance end?
 - Emancipation of the children, termination of child support/alimony, change of employment?
- If life insurance is not available – for instance, because of the health or age of one party, or the unavailability of insurance through an employer and prohibitive cost of private insurance – do the parties have other ways to ensure care of the children in the event that one parent dies, such as beneficiary designations on retirement plans?

Taxes – You and your spouse will need to make decisions with respect to the payment of taxes, including whether all taxes that need to be filed have been filed, whether you will file jointly or separately for any upcoming calendar year during which you are considered married, how you will allocate any dependency-related benefits, child tax credits, and other tax-related issues.