

TIPS FOR PARENTS ENGAGED IN THE COLLABORATIVE FAMILY LAW PROCESS

By Gay G. Cox, Attorney-Mediator

You are to be commended for choosing the collaborative law process as the means to solve the problems you and your child(ren)'s other parent are having. It is evident that you want the best possible outcome for your children and see this as a means of achieving it. Based on experience with families who select this method of problem-solving, it is apparent that they tend to have some very important common values. They are parents who desire to:

1. Help the children adjust to the inevitable changes that occur when parents have differences that result in their living apart. (Making Healthy Transitions)
2. Reduce parental conflict and provide the children a conflict-free safe environment, thereby minimizing the emotionally destructive effects high conflict is known to have on children. (Minimizing Conflict)
3. Ensure that the children feel loved by the significant adults in their lives, most importantly, by their parents. (Showing Love)
4. Assure the children that it is never a child's fault that the parents are having difficulty resolving issues that affect the child. (Avoiding Blame)
5. Encourage a positive and healthy parent-child relationship between the children and their other parent. (Fostering Good Relationships)
6. Continue to help the children "feel they are heard," by actively listening to their opinions and preferences, while at the same time not burdening the children with parental decision-making. (Hearing the Voice of the Child)
7. Allow the children to have as normal a life as possible while the matter is being resolved. (Providing a Stable Environment)
8. Spare the children from being burdened with parental responsibilities and roles during a time when the parents realize they are not functioning at their best. (Letting the Children Be Children)
9. Recognize if a child is overly stressed by the changes in his or her life and utilize appropriate resources to help the child cope. (Seeking Professional Help)
10. Preserve financial resources that need to be dedicated to the children's needs, including the future education of the children. (Saving Money)

11. Model healthy communication and problem-solving skills. (Being Positive Role Models)

12. Choose from all the options for parenting time and allocation of parental responsibilities those that have the greatest likelihood of the best possible result for the sake of the children, taking into consideration the unique needs of their family. (Achieving the Best Possible Outcome)

It may be helpful to you to learn what parents who have been successful in accomplishing these goals have used as their strategies. For each of the goals above, you will find there are a number of "tried and true" approaches.

Making Healthy Transitions: Help the children adjust to the inevitable changes that occur when parents have differences that result in their living apart.

There are many books written on the subject of helping children cope with the issues they face when their parents' relationship changes from one of supportive partnership to one based solely on the co-parenting relationship. Included at the end of this paper is a suggested reading list for you to use in broadening your understanding of the effects of permanent parental separation on children. Many parents who demonstrate the best skills in going through these changes take the time to read what the experts say.

Your first dilemma may be how to tell the children. A commonly recommended approach is for both parents to tell the children together that they have decided that certain changes (such as separation) are going to occur. Neither parent is held solely responsible for this decision. The children understand that the parents have discussed beforehand all the options and have made the adult decision that the change is one which hopefully will reduce certain unpleasantness (such as, the arguments they have witnessed) or the parents' unhappiness. The children are assured by both parents that they both will always love them and be there for them. The fact that the parents no longer love each other in a way that sustains an adult relationship will never mean that the love either of them have for their children will diminish – parental love is a different kind of love. The parents explain that they both want to continue to spend time with the children, but in most circumstances, the time they each spend with the children will be when the other parent is not present. Any planned move from the residence will be explained. The children will be allowed input into which of their personal belongings will be in each of the two homes that are established for them. They will be told that they have a home with each parent, so essentially they will have two homes. How much time they spend in each one may still need to be worked out, but the parents will be willing to consider their thoughts about that before the parents make the final decision. Many things will stay the same – they will still be able to visit their grandparents, have sleepovers with their friends, play on sports teams, take music or dance lessons, and perhaps remain in the same school.

Their questions are answered directly, succinctly and honestly without inappropriate adult themes being shared.

Another transition issue that often comes up is how to make residential changes smoothly. The children could be taken as soon as possible to see the new residence and find out for themselves where they will be sleeping and where their belongings will be. Both parents could go on this trip to show that both parents approve of the suitability of the new surroundings. Any new school or child care facility would need to be visited as well.

Another major transition is the introduction of new people with whom the parent is involved. As parents you may want to read more about how best to handle this, or better yet, consult with a child psychologist or other counselor familiar with children's issues who could advise you. Many suggest that there be a period of time while the children adjust to their parents' separation before they are introduced to new significant adults (and their families). The goal is to help the children move smoothly into the new life they will experience in their reconstituted families.

2. Minimizing Conflict: Reduce parental conflict and provide the children a conflict-free safe environment, thereby minimizing the emotionally destructive effects high conflict is known to have on children.

All the books you will read on the subject will make the point that high conflict between parents is what is damaging to children. So you value keeping the children out of the middle and sheltering them from the emotional upheaval you have been experiencing. They do not need to be witnessing hostile verbal exchanges or even contemptuous attitudes and behaviors. They can read your body language like a book – they have been around you their whole lives and know when you are upset. Find a way to calm down and be peaceful in all your interactions with each other that the children witness. Your reaction to the other person's intentional or unintentional "button-pushing" is your choice – you control whether to pull the trigger of an emotional outburst or not. Respect each other's boundaries and learn to refuse to engage in escalating discussions – even hanging up with the words "I hear you; we can discuss this at another time. Goodbye." Then contact the other parent in 24 to 48 hours when the children are not around and resume the conversation on a more harmonious note. Just as in the collaborative process where we stick to an agenda and we avoid surprises by deferring new matters to future meetings, you can do the same in your personal communication. Then you will always be afforded the time to think about something before you make a hasty or rash decision. Children report that they can tell the level of conflict from one end of a phone conversation they overhear, even when you think they are occupied with something else or asleep. Emotionally charged memories are the ones that stick with us all our lives. You want to reinforce the positive memories and avoid the emotional scenes that will produce lasting scars on the childhood your children will recall.

Exchanges of the children between you should be made as pleasant and non-threatening as possible. It is best if the children are rested, well fed, clean and have their homework done and their necessary belongings with them when the exchanges are made. It is stressful enough going between two households without the additional stress of a parent's frustration over being burdened with what is perceived to be the other parent's responsibility. Some wise parents share the transportation with each parent delivering the children to the other so that the children see that the parent is supportive of the child going to the other parent. The children are not being removed from a place or activity they are enjoying by the parent who has come to pick them up. They will not associate leaving as a time of tension between the parents. The parent who has plans will not be inconvenienced by a parent who is late and the children will not be disappointed and anxious waiting for the parent to come. Being on time saves children from a lot of anxiety. It is always common courtesy to let each other know if you are going to be late and why. You can tolerate occasional tardiness, but if there is a pattern it is worth addressing during collaborative four-way meetings, therapy sessions or periodic co-parenting meetings.

Something else that helps make the transitions between households easier for children is for them to be given space to settle in and allow them to share in their own time what they want to tell about their time with their other parent. What you really need to know you can learn by simply asking the other parent and in the collaborative spirit, if you ask, it will be answered. Pumping the children for information will ultimately mean that you get the least amount of information they feel they can get by with telling you or else they learn that exaggerating what they think you want to hear brings its own perverse reward. Either way this does not foster the kind of relationship you want with your children. The goal is for the children to see their parents cooperating, communicating and not in conflict. It really is as simple as treating the other parent and the children like you would want to be treated.

Showing Love: Ensure that the children feel loved by the significant adults in their lives, most importantly, by their parents.

You will want to reassure your children continually that you both still love them. At no time will you ever want to imply that their other parent no longer cares for them or would prefer not to have them around, even in periods when it seems his/her priorities are focused on something else—the parent's education, work or new relationships. It is important for the children's self-esteem that neither of their parents is demeaned in their presence. One of the worst things a parent can be accused of is alienating the children from the other parent because of the damage such emotionally abusive behavior causes. Disparaging comments about one's parents are naturally taken personally since one's identity comes half from each parent. Children (even if only in their own minds) will naturally take up for the parent who is being "put down" and they commonly turn against the parent that they perceive is bitter and judgmental. They believe that if a parent

can be this contemptuous of their other parent, the day may come when the parent feels the same way about them. The love they feel from their parent begins to seem to be conditional and they become emotionally insecure. It becomes important to discourage the children's extended family—grandparents, stepparents, aunts and uncles—from speaking negatively about either parent around the children. The goal is for the child feel lovable and loved by all and secure in that love.

Avoiding Blame: Assure the children that it is never a child's fault that the parents are having difficulty resolving issues that affect the child.

You have consciously chosen a process that is not about "blame and shame." Nowhere is the adage, "Judge not that ye be not judged" more important than when a child's feelings are being considered in these types of matters. First of all, it is very common for the child to believe that "if only" he or she had done something differently, this problem would never have occurred. If he or she were not in the picture, it seems his or her parents would not have had a reason to argue. They think they must be to blame for the break up of the relationship. Remember, when you first fell in love, you did not have children, so they imagine if you could just go back to the "happy time" you would be forever in love. Children need to be reassured that the unhappiness between their parents they have witnessed is not about them. Their parents have been unsuccessful at meeting each other's needs, but it is not the children's fault. They are not alone. Many parents have discovered that they were unable to sustain a particular relationship because of a personality conflict.

Likewise, they need to be protected from judgmental, accusatory, blaming, and sarcastic comments made by either parent about the other. Both their parents need to take responsibility for the part each plays in the problem that now needs to be solved. You can each acknowledge that, though it saddens you, you are not the type of person the other one feels he or she needs and that you truly hope the other is able to have his or her needs met and to feel loved. You send messages to the children that you want peace and good will between their parents for their sake. The goal is to have the children grow up to be individuals who will take responsibility for their own actions and not waste their lives trying to assess blame on others for all their problems.

Fostering Good Relationships: Encourage a positive and healthy parent-child relationship between the children and their other parent.

Ideally, you want to foster as good a relationship as possible between your children and their other parent. This makes for an emotionally healthy child with positive self-esteem. Of course, this goal translates into making it as easy as possible for the child to spend quality time with the other parent. This includes telephone contact and instant messaging time, as well as time spent together in routine parent-child interactions. It may take a lot of flexibility or you may prefer

the structure of a set schedule depending on your and the children's personalities. Being considerate of each other's plans when scheduling things will help achieve this. Significant activities (like religious or awards ceremonies, sporting events, recitals, school conferences, hospitalizations or surgeries, graduations, and later weddings and births of grandchildren) will naturally need to be shared events. Every child should feel free to celebrate their triumphs with both parents without having to worry about a scene or confrontation between them. If you are mature and healthy enough to engage in four-way meetings in the collaborative process, of course you can handle being together with your children when they both need you there. Don't be surprised if each of you has an improved relationship with your children when you are free from the tension in your household caused by your problems, the children have your undivided attention and you periodically have a break from the children to renew yourselves. This is truly something to celebrate. The goal is for the children to feel the security that both of their parents will always be there for them.

Hearing the Voice of the Child: Continue to help the children "feel they are heard," by actively listening to their opinions and preferences, while at the same time not burdening the children with parental decision-making.

Your willingness to engage in a process that involves listening to each other's interests in order to arrive at the best possible outcome is a strong indication that you will value that same goal with your children. Children who have been through the traditional adversarial process have grown up with regrets that no one ever listened to them. You probably have considerable skills in engaging your children in meaningful discussions about their desires and preferences. Maybe they are very outspoken about what they think they need. This is an important time to use those skills to show them you truly do care to know what they are experiencing and hoping. Ironically, if you had elected to pursue an adversarial process, you may have been enjoined from having any conversations with your children about what is happening in your lives. Then the worst possible scenarios are left to the children's imagination and the "secret" consumes their mental energy.

They will probably tell you that they want you and their other parent to reconcile—this is the most common fantasy of children who have experienced what your children are going through. If that possibility is being or has been explored, you can tell them what is happening, without giving them false hope. The deeper desire on their part may be for everything to stay the same in their lives. You will need to let them know that there will be changes, but that together you will be able to adjust to them. It is important that they understand that no one is expecting them to take sides or to make ultimate decisions that parents are charged with making. Whether they will live in one or the other home primarily and, if so, with whom, is a parental decision. Their preferences will be considered before decisions are made. You will likely need to afford a teenager with a driver's license a lot of flexibility about where he or she will spend time. On the other hand, a young child's insistence that he or she wants to stay and play with

playmates or toys and not go to the other parent's home is something you will not honor, because it is more important that the child have quality time with each parent than the granting of his or her wish not to be interrupted.

Many parents and their lawyers feel hesitant to explore what the children are feeling directly with the children, especially with young children. That is where the team concept of the collaborative process plays such a vital role. The parents can retain a neutral child specialist to help them understand the developmental needs of children generally and to interview their children to learn what they are thinking and feeling about the changes in their lives. Then the child specialist can meet with the parents or in a five-way with the lawyers and give an expert opinion about what would be the best possible outcome for the children. It is still the parents' decision, but they will have received very valuable input. With older children, the parents may want the children to participate in a collaborative meeting at which the options for parenting time and holiday access or school choice are discussed. You have control of the process and you decide what is best for your family. The important goal is for your children to come out of this with the sense that their feelings were considered and you made the effort to hear them.

Providing a Stable Environment: Allow the children to have as normal a life as possible while the matter is being resolved.

Your goal is to make it as easy on the children as possible. Though there are many inevitable changes in their lives that result from the problems you face, many things can remain the same. Maybe, for the time being at least, one of their homes will not change. Moving is a stressful change for anyone. With small children, you can replicate their environment with the acquisition of similar (if not, identical) bedding, toys, computer games, and menu items. Special possessions, like security blankets and stuffed animals, can go back and forth with the children. They can have play clothes and toiletries at both homes. Then they don't have to remember to bring their toothbrushes and socks. Parents can take responsibility to insure that certain items are included in the belongings that accompany the child, such as school books, homework assignments, uniforms and sports equipment. As a child gets older, the child can be taught responsibility by neither parent rescuing the child when the child fails to bring along something that he or she needs.

Discipline methods can be consistent. For instance, the parents may decide that neither will use physical discipline or both will withhold the same privileges. Parents can communicate about consequences that the children are experiencing because of bad choices. On the other hand, parents let go of their expectations that there will be follow through with discipline in the other home. For instance, it is unreasonable to impose "grounding" during the other parent's parenting time. The child and other parent understand that consequences for a child's misbehavior will occur when the child returns to the home where the

offense occurred. Sometimes parents with open lines of communication agree that the rule violation was egregious enough that the consequences (such as no access to car keys) will cross the boundaries from one home to another. The children feel more secure when they find that the parents remain in charge and that they are not allowed to run wild just because their parents are preoccupied with their own problems. They learn they can't play one parent against the other and manipulate the situation. They find out that you will always be checking with each other to ascertain if the children are mischaracterizing or exaggerating the facts to tell you what they think you want to hear.

They learn that just as the rules at school, day care and grandparents' houses differ, so do the "house rules" in both homes. For instance, one parent may tolerate bouncing a ball inside; the other says balls are for outside play. One parent allows food in the den or the child's room; the other says eating is limited to the kitchen and dining room. What is important is that the parents affirm that each has the right to make house rules and that the parents do not undermine each other's authority. Sharing information about house rules is empowering, because then a parent can say "I know your other parent allows you to do that, but in our home it is not allowed." Children are remarkably able to adapt to minor inconsistencies between their parents and their other care-giving environments. Unless a child is being harmed by a parent's behavior, much latitude is given to these differences. You are both only human and each of you will make mistakes when it comes to being parents. Clear the air, admit when you were wrong, explain how you intend to handle the matter in the future, and forgive each other. Hopefully, your children will learn to forgive you by seeing you model forgiveness of each other.

Relationships can be maintained so that the children have a sense of normalcy. Friendships they have always had can be fostered with outings and sleepovers. Relatives can be encouraged to continue to spend time with the children even though the precious resource of time with the children is now shared. The children may be able to continue to attend the same school where they have many more important relationships with peers and teachers. They may be able to continue consistent attendance at religious institutions or camps. The same nannies or other day care providers can continue to care for the children during each parent's respective parenting time.

Activities in which the children have historically been involved can continue without interruption. Lessons, sports, competitions, tutoring, etc. in which they regularly participate do not need to be unnecessarily affected. It may mean that a parent who has assumed more responsibility for a particular activity in the past will no longer be the only one responsible for seeing that the child participates. What is important to the children is that their world is not radically altered by your life decisions. They need more than a semblance of things being ordinary. What they don't need is for everything to become a "fairy tale" world of extraordinary

outings and gift-giving. The goal is for the children to feel the security that a degree of normalcy offers.

Letting the Children Be Children: Spare the children from being burdened with parental responsibilities and roles during a time when the parents realize they are not functioning at their best.

A variation on the theme of providing normalcy is the important task of maintaining appropriate parent and child roles. You do not want to burden your children with your adult problems. They are not appropriate confidantes. You need adults helping you sort through your choices and helping you make wise decisions. This is one of the reasons you selected collaborative law; you wanted competent legal advisors to help each of you understand the legal consequences of your choices. You may want to add to the team mental health professionals to help you communicate better, understand the emotional toll the problems are taking on you and your family, and make decisions that are in your children's best interests, as well as your own.

You want your children to still be relatively carefree and able to play and socialize like any other child. All their time does not need to be occupied with your agendas. Adults who have experienced the rigidity in schedules that some separated parents have imposed often have the attitude that they no longer feel obligated to accommodate their parents. They resent what they missed out on as children growing up. Though the division of labor in your household before the separation may now mean that the children need to assume more chores for everything to be accomplished, keep in mind that you are asking a child to assume these responsibilities. They should not feel that they have suddenly been forced to grow up and to take over the absent parent's responsibilities in your household. The resentment they would probably feel could damage your relationship.

Children don't want to carry messages between their parents. It is normal for you to touch base with each other about the children's needs. This type of communication does not need to be foisted on the children. If you need to know something or to convey something about the children's care, you can always pick up the phone or email each other. You can send a parent notebook in a child's backpack that details important information like changes in medication, sports schedules, school notices or party invitations.

What the children desire is to be allowed to be children. Your goal is to enhance the chance that what seems like a long time to a child (a whole summer or an entire semester) will pass quickly with minimal effect on the children's right to stay on track developmentally. Their social development need not be arrested by this phase in your lives.

Seeking Professional Help: Recognize if a child is overly stressed by the changes in his or her life and utilize appropriate resources to help the child cope. While it is true that most children are very resilient and many do not require professional help when their parents decide to separate, others clearly benefit from some therapeutic help. You may have a child who is sensitive and has more difficulty making transitions. What is happening in his or her life may hit him or her harder than it would another child. You may see signs of depression. Don't pass them off as merely situational without getting a professional opinion. You cannot afford to let the distraction of your problems cause you to miss what could be a life-threatening problem for the child. Your child may also need the assurance that he or she is not the only person to ever have experienced such pain. There are support groups for children that help them normalize dealing with their parents' separation-related problems. Your child may "act out" with behavior problems you have never encountered before. Maybe the child is attempting to get your attention and cause you to focus on him or her, so that you will get back together. This would not be unusual and is not a character flaw or evil manipulation. It is a coping mechanism many children try. Professional help could assist the child in understanding that these self-destructive behaviors are ineffective strategies. Your goal is to fulfill your parental duty to care for your children's emotional well-being. You want your children to remain emotionally healthy. This may mean that you discuss with the other parent or in a four-way meeting the perception that the children would benefit from the engagement of a mental health professional. Then you will follow through with the agreed upon interventions.

10. Saving Money: Preserve financial resources that need to be dedicated to the children's needs, including the future education of the children.

Everyone wants to save money. While it is true that going through a collaborative process may not be cheap depending on the complexity of the issues that must be addressed and the number of meetings that are necessary to resolve all issues, you have chosen this process over the uncontrolled spending that the litigation process imposes on litigants. You are committed to avoiding the excessive costs associated with protracted litigation. All of this means that your priority is spending your resources on your family and on your own needs, not on lawyers. You are cognizant of the high cost of raising children and providing them all that you desire for them. Unnecessarily spending resources that could be better spent on your children's college education seems foolish to you. Sadly, children whose parents have lived apart have less financial security when it comes to having funds available for college than children of intact families. It makes sense; it does cost more for two households than one. On the other hand, the process you have chosen, like mediation, makes it more likely that both parents will contribute to the child's expenses than when a court has imposed a child support order. You have the luxury of designing a means of supporting the children that meets your families' needs better than strict adherence to "child

support guidelines" ever offers. Your goal is to be able to provide for your family. Be creative in the options you consider about how best to do this.

11. Being Positive Role Models: Model healthy communication and problem-solving skills.

You probably worry, as will your children as they get older, that your difficulties in adult relationships will affect your children's ability to make healthy commitments in their adult relationships. There may be a correlation between hesitancy to commit and having observed failed relationships. However, you can compensate to a degree for what has happened in your life by becoming a better communicator and problem-solver. You can make a conscious effort to model behaviors where you avoid showing contempt and destructive sarcasm, where you are not overly critical or defensive, and where you don't avoid facing your problems. This collaborative process itself is a first and significant step toward your demonstrating your capacity and competence at handling your problems in a mature and rational fashion. The anger management and problem-solving skills you will use in the process will give you tools for dealing with issues that arise in your parenting. Contrast the collaborative approach with what your children would have observed if you had engaged in a courtroom battle designed to establish the fault of the other parent and his or her unworthiness to parent the children in the same way you believe you can. The children would likely have been involved in the litigation through a social study and/or psychological evaluations and maybe even an interview with the judge or actual testimony. They would not have come through your conflict unscathed. Instead, your goal is to have them observe you making important decisions about them in an emotionally healthy way. You want them to grow up to be individuals who are courteous and who respect the dignity of their fellow human beings, and you are showing them how in this process.

12. Achieving the Best Possible Outcome: Choose from all the options for parenting time and allocation of parental responsibilities those that have the greatest likelihood of the best possible result for the sake of the children, taking into consideration the unique needs of the family.

Your paramount goal is the best possible outcome for your children, yourself and your reconstituted family. You are focused on the children's needs, as well as your own, and your core values. You know what is most important to you and you have your children's well-being as a top priority. You have chosen a process that allows you to assess all the circumstances that relate to your children, address each other's concerns, explore all the options, develop a clear understanding of the likely consequences of those alternatives, and together arrive at the best possible decision you as parents can make for your family. No one else on earth loves your children the way you do, so no one else is in a better position to make those decisions. Collaborative law is your preference because it affords you the opportunity to do just that.

© 2003 Gay G. Cox.

Gay G. Cox is Board Certified in Family Law by the Texas Board of Legal Specialization, has served as lead trainer in Dispute Mediation Service's Family Mediation Trainings and has trained family mediation for Texas Woman's University and Texas Wesleyan and SMU Law Schools. Her other areas of professional interest are faith-based mediation and collaborative family law. She is a member of the Episcopal Diocese of Dallas Ministry of Conflict Transformation, the Dallas Alliance of Collaborative Family Lawyers, the Dallas, Texas State and American Bar ADR and Family Law Sections, the Association of Attorney-Mediators, the Texas Association of Mediators, the Association of Conflict Resolution, and the Association of Family and Conciliation Courts.

Suggested Readings

Adler, Robert E. Sharing the Children. Bethesda, Maryland: Adler and Adler, Publishers, Inc., 1988.

Ahrons, Constance R. The Good Divorce: Keeping Your Family Together When Your Marriage Comes Apart. New York: Harper-Collins Publisher, 1994.

Bienenfeld, Florence. Helping Your Child through Your Divorce. Alameda, California: Hunter House, 1995.

Bolick, Nancy O'Keefe. How to Survive Your Parents' Divorce. New York: Franklin Watts, 1994.

Brown, Laurence Krasny and Brown, Mark. Dinosaurs Divorce: A Guide for Changing Families. New York: Little Brown and Co, 1986.