



Yes You Will Be Supporting Your Children After They Turn Eighteen



WRITTEN BY:
MARY CAY TRACE

Many people are in for a shock when they go through a divorce, when they learn that they will be required to contribute to their children's support and maintenance and their children's college costs, after their children turn eighteen.

New Jersey is a leading proactive state in protecting its children when families fall apart. Although the majority of the states in our country emancipate their children when they turn eighteen, so that divorced or unmarried parents no longer have an obligation to support them beyond that age, New Jersey does not follow the majority view.

Rather, New Jersey parents who enter the family court system, whether because they are divorcing, separating, or have never been married but have children together, will find that their support obligations for their children will extend beyond high school so long as their children are attending college, vocational, technical or other post high school education full-time.

Mary Cay Trace is a Partner in Trace and Jenkins, LLC, in Woodbury, New Jersey, where she concentrates in the area of matrimonial law and related matters, ranging from simple to complex matters; non-dissolution matters, civil union and domestic partnership matters, extensive motion practice, trial litigation in divorce, custody, domestic violence and related matters. She is also a Matrimonial Law Mediator.

Admitted to practice in New Jersey and Pennsylvania, and before the United States District Court for the District of New Jersey, the Third Circuit Court of Appeals and the United States Supreme Court. Ms. Trace is a member of the American Academy of Matrimonial Lawyers and the New Jersey State Bar Associate Family Law Section as well as the Camden, Salem and Gloucester County Bar Associations. She is a member and Past Chair of the Gloucester County Family Law Committee and a member of the Camden County Family Law Committee, and serves as a Matrimonial Early Settlement Panelist for Camden and Gloucester Counties. She also serves as a Blue Ribbon Panelist in Camden, Gloucester, Cumberland and Burlington Counties. She serves on the New Jersey Family Law Executive Committee, served on the New Jersey Supreme Court Special Committee on Matrimonial Litigation and was a member and former Chair of the District IV Arbitration Committee. She is a member of the District IV Ethics Committee.

Ms. Trace has lectured for ICLE, Gloucester County College and other professional and community groups. She is a Master, Thomas S. Forkin Family Law American Inns of Court, and she received the E. Henrietta Roesler, Esquire, Women in Law Award in 2004.

Ms. Trace received her B.A. from Douglass College, Rutgers University, and her J. D. from Widener University, the Delaware Law School.

The court examines two main components of the support obligation when the child is attending school beyond high school. The first such component is the contribution to the child's cost of schooling. The second such component is the child support due to the custodial parent.

In making its determination relative to the parent's responsibility to the cost of schooling, the court is required to look at the following twelve factors (known as the *Newburgh* factors):

1 Whether the parent, if still living with the child, would have contributed toward the costs of the schooling.

2 The effect of the background, values and goals of the parent on the reasonableness of the expectation of the child for higher education.

3 The amount of the contribution sought by the child for the cost of higher education.

4 The ability of the parent to pay the cost.

5 The relationship of the required contribution to the kind of school or course of study sought by the child.

6 The financial resources of both parents.

7 The commitment to and aptitude of the child for the requested education.

8 The financial resources of the child, including assets owned individually or held in custodianship or trust.

9 The ability of the child to earn income during the school year or on vacation.

10 The availability of financial aid in the form of college grants and loans.

11 The child's relationship to the paying parent, including mutual affection and shared goals as well as responsiveness to parental advice and guidance.

12 The relationship of the education requested to any prior training and to the overall long-range goals of the child.

Only after examining and weighing these factors will the court then make a determination as to each parent's responsibility to contribute to the cost of the child's education.

After determining the parent's respective obligations to the cost of their child's education, the court will then determine if in fact child support to be paid to the custodial parent by the non custodial parent is also warranted. The amount of child support is dependent upon many different factors including whether or

not the child lives at school or at home during the school year, the income and assets available to the child as well as the special needs of the child.

A parent's responsibility to support their child continues so long as the child is in school full time, presumptively to the age of twenty-three. If a child misses a semester due to illness or other personal issues, the court will not automatically emancipate the child, but will instead look into the facts surrounding the circumstances. If the child needs to extend their education beyond the age of twenty-three, the courts will examine the circumstances to determine if continued support is warranted. The bottom line is that the courts want very much to ensure that the child has a fair opportunity to complete their education.

Of course, if you and your child's other parent are able to work out your own agreement with regard to your respective responsibilities, the court will not impose their own judgment, so long as

you have made some provisions to ensure the child has the ability to go to school beyond high school.

I have seen parents enter into agreements that require their child to contribute to a certain percentage of college costs, that limit the parents' financial responsibilities to the cost of a New Jersey State University, or that expand the parent's financial responsibilities to contribute to the costs of such things as tutoring, spending money, computer equipment, studying abroad, costs associated with joining a fraternity or sorority, SAT and admission costs, and other various costs associated with a higher education, in addition to the tuition, room and board, books and miscellaneous fees.

Many people who come into my office are surprised that they are not able to emancipate their children at the age of eighteen, because our surrounding states do just that. Even though our laws express the majority view, I doubt they will change anytime soon.

IN MATTERS THAT SO DEEPLY AFFECT YOUR LIFE,
TRUST PARTNERS THAT ARE LEADERS IN THE FIELD
WITH 46 YEARS OF UNPARALLELED EXPERIENCE



TRACE & JENKINS, LLC
MATRIMONIAL AND FAMILY LAW FIRM

Our Goal is to provide you with factual & practical information
to help you make the right decisions for your future

58 Euclid Street, Woodbury, NJ 08096

856-251-0800