



When Clients Retain Their Power: The Collaborative Law Process

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The Collaborative Law Process values client control and self-determination. Clients can express themselves and participate in the Collaborative process in ways and at levels

other processes not primarily focused on them do not encourage.

By choosing a dispute process like the Collaborative Process, which gives them a voice and power to shape resolving their dispute and their destiny, clients are more likely to feel satisfied with their chosen process than they would feel with other processes. They perceive processes that emphasize and invite self-determination – a cornerstone principle of the Collaborative Process – result in satisfying, acceptable outcomes.

The ABA-Approved UCLA Promotes Settlement through Self-Determination

On February 5, 2024, the American Bar Association’s House of Delegates adopted Resolution 703, approving the Uniform Collaborative Law Rules and Uniform Collaborative Law Act (UCLA) as “appropriate for those states desiring to adopt the specific substantive law suggested therein.” [1](#)

State Adoption of the Uniform Collaborative Law Act Marches On!

As of this writing, 25 jurisdictions have enacted the UCLA, 19 by statute, 4 by rule, and 2 as a hybrid approach.[2](#) . On April

4, 2024, Kentucky became the 23rd state and, on May 21, 2024, Louisiana became the 24th state plus the District of Columbia to adopt the UCLA. Sponsors introduced bills in Missouri³

Here is a [statewide chart of enactment](#).

The UCLA Encourages Clients to Take Control of Their Future

The UCLA promotes client self-determination. Procedural justice researchers have found more client control of the process they use to resolve disputes is more likely to leave them satisfied with the outcome. In the Collaborative Process, that means having a voice, expressing themselves, and actively participating in the process.⁴

The Uniform Law Commission (ULC), which drafted and approved the UCLA in 2010, cited this procedural justice research.⁵ In mediation, clients who could participate and shape the outcome in their process were more satisfied with the process than they would be with adversarial processes, where they lacked this voice and participation. Likewise, the ULC found such self-determination central to the Collaborative law process.

Self-Determination: Who Knows Best?

Who knows better than the client what's best for their families, businesses, and themselves? Their lawyer? A judge? Client-centered dispute resolution processes, like Collaborative practice and mediation, value and encourage clients, rather than paternalistic advisors or tribunals, to control decisions that will profoundly affect their families, businesses, and themselves.

Clients Goals Drive Outcomes in Processes that Respect Retained Client Power

Robert A. Baruch Bush⁶ observed:

“Parties value the self-determination inherent in consensual dispute resolution, as they believe they know what is best for themselves and want to be able to incorporate that understanding into the settlement of their disputes.

Robert A. Baruch Bush, Efficiency and Protection, or Empowerment and Recognition?: The Mediator's Role and Ethical Standards in Mediation⁷

The Collaborative Process puts clients first. Client control of decisions is a cornerstone, and, to mix metaphors, may be at the heart, of client-centered approaches to lawyering.⁸ Clients must choose among alternative paths and options. Each path or option has legal and nonlegal consequences. Yet which alternative or option will best satisfy a client

derives from the client's unique values, goals, and intuition... elusive even to lawyers who aspire to read minds.

In client-centered dispute resolution, clients decide on paths and options they select.⁹ From initial consultations to the first full collaborative team meeting to signing agreements resolving issues, the [Collaborative Process](#) encourages clients to identify and articulate their values, goals, and feelings, with a “big picture,” longer view, so they may arrive at agreements most acceptable to them.

The International Academy of Collaborative Professionals Respects Client Self-Determination

Client control is not lost on the [International Academy of Collaborative Professionals \(IACP\)](#), the largest global body of Collaborative Professionals. IACP Minimum Ethical Standard 3.2 for Collaborative Professionals, provides that a Collaborative Professional “will respect each client's self-determination; recognizing that ultimately the clients are responsible for making the decisions that resolve their issues.”¹⁰

Clients' retaining say-so in their own future leads to satisfaction with the process, even if not the outcome itself. Having a voice¹¹ and participating in the process leads to a greater likelihood clients will be satisfied with the process and will perceive the process has been fair.¹²

Retained Client Control Includes Using Collaborative Contract Power

Collaborators working in a confidential, intimate, and encouraging environment may achieve — by [contract](#) — “person-oriented” remedies. Such remedies may include like “an apology, a handshake, and invitation.”¹³ Clients may express choices by contract commitments that advance their goals. These goals may include maintaining personal relationships (for example, as coparents), preserving bonds in an interdependent group (for example, a family, a neighborhood, or a social group), or moving past the dispute in harmony, without their relationships irreparably destroyed (for example, to continue in business together).

Even a well-meaning judge — but a stranger to the parties — seldom can impose remedies beyond those equity and law provide for the claims that the parties have presented to the judge for adjudication.¹⁴ Statutes, case precedent, and rules of procedure and evidence constrain judges from ordering actions or awarding relief they believe to be “fair.”

Collaborative Process: Clients Retain Power to Expand Choices and Create Contract Solutions

Retaining control over solutions expands what people can agree to do. Consider in the family context obligations parties took on contractually that a judge could not have ordered otherwise. Examples have included:

- Setting forth milestones over three years for a parent to receive increased timesharing with a child.[15](#)
- Paying for an [adult disabled child's support](#).[16](#)
- Paying post-emancipation support for a child.[17](#)
- Paying for a child's uninsured future medical expenses until graduation from college.[18](#)
- Maintaining medical insurance and paying for medical, dental, or orthodontic expenses not covered by insurance for as long as a child is eligible, even if past majority.[19](#)
- Paying for a child's graduate school expenses.[20](#)

- Providing for support for a child after the parent dies.[21](#)
- Paying nonmodifiable [durational alimony](#) even after the recipient remarries.[22](#)
- Overriding law terminating alimony upon obligor's death and expressly making the obligation continue to be enforceable against the obligor's estate.[23](#)
- Agreeing to use a different date than the law provides for identifying the marital asset cutoff date.[24](#)
- Providing for an additional child to be included in a [parenting plan](#) without having to show a substantial change in circumstances.[25](#)
- Providing for a custody change based on an expected date-certain completion of a servicemember's tour of duty.[26](#)
- Providing for revisiting custody when a precipitating event occurs (a child's starting school) without having to show a more [burdensome substantial change in circumstances](#) ordinarily required for modifying a parenting plan.[27](#)
- Waiving rights to appeal.[28](#)

Client Retained Control: The Collaborative Law Process

By collaborating, clients may retain power to control their future relationships. They may think beyond binary legal positions. They may expand options for settlement and achieve outcomes unavailable to them in other processes. For their families, their businesses, and themselves, by engaging in the Collaborative Law Process, they may retain control over their lives and emerge satisfied with the process in which they reached agreements.

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