

In 1993 the Pennsylvania Legislature enacted a law that made non-custodial parents in a divorce responsible for their children's college expenses, to the extent that they can afford to pay. The law was struck down as unconstitutional this year by the Supreme Court of Pennsylvania, which reasoned that divorced, non-custodial parents should not have to pay their children's college expenses because parents who are married to each other have no legal obligation to do so. A 1992 study by the U.S. Department of Education found that while 71 % of children of parents who are not divorced went to college, the percentage was only 54 % in the case of children of divorced parents. The study also found that only 6% of custodial parents expected their former spouses to help in paying college bills.

Is it fair to hold non-custodial parents in a divorce legally responsible for contributing to pay for their children's college expenses? If so, why? If not, why not?

MODERATOR'S ANSWER: The Pennsylvania law holding non-custodial divorced parents responsible for contributing to payment of their children's college expenses was unfair. The Supreme Court of Pennsylvania correctly concluded that the law unjustifiably imposed a special responsibility upon non-custodial divorced parents not required of parents who are married to one another. The factual point that parents who are married to one another contribute more often to paying for their children's college expenses than do non-custodial divorced parents does not justify imposing a special legal responsibility to contribute only upon non-custodial parents. The economic problems faced by children of divorced parents in regard to paying for college should be addressed through other means such as federal and State loan programs, need based scholarships, and increased measures to assure that noncustodial parents meet their legal obligations in regard to child support.

Case from the February 24, 1996 Intercollegiate Ethics Bowl. Copyright Robert Ladenson, Center for the Study of Ethics at the Illinois Institute of Technology, 1996.