



# POTENTIAL COMMUNICATION PITFALLS IN THE COLLABORATIVE PROCESS

**By: Susan Guthrie, Co-Founder  
Mosten Guthrie Academy**



**SUSAN GUTHRIE**

The collaborative divorce process is a form of alternative dispute resolution where divorcing couples work together with trained professionals, such as attorneys, mental health professionals, and financial specialists, to reach a mutually acceptable agreement on all aspects of their divorce. While this process can be extremely effective in resolving disputes and reaching a satisfactory outcomes for both parties, there are several areas where there exist the potential for breakdowns in communication can occur which may drastically hinder the process. Here are some examples that are especially applicable in a collaborative divorce.

1. **Emotional barriers to effective communication:** Divorce is an emotionally charged process, and couples may have a hard time communicating effectively when they are experiencing strong emotions such as anger, sadness, or fear. This can lead to misunderstandings and an inability to reach a resolution. Add to this that communication issues are the #1 cited cause for divorce<sup>[1]</sup> and

in most cases, couples will come to the collaborative table with ingrained but ineffective patterns of communication. Because the Collaborative divorce process relies heavily upon a communication model of open and free sharing in order to explore optimal outcomes, these boundaries can present a substantial challenge to the process unless planned for and addressed.

**2. Power imbalances within a couple:** As with the emotional aspects of divorce discussed above, many couples also present to the divorce process with established power imbalances. If one party has more power or control over the process, it can be difficult for the other party to express their needs and concerns. This can lead to a breakdown in communication and an unfair outcome if not addressed.

**3. Lack of transparency:** It is a hallmark of the collaborative process that both parties are expected to be transparent about their finances, goals, and concerns. If one party is not honest or forthcoming, or one party even feels that the other is not being transparent, it can cause mistrust and a breakdown in communication that may effectively terminate the process.

**4. Ineffective communication skills:** Collaboration is, at its core, an ode to communication. Collaborative communication is especially important in the divorce process where parties may have some different interests and perspectives. Effective communication is key to the collaborative process in that it can help to build consensus and promote more effective decision-making. If one or both parties lack good communication skills, they may struggle to express themselves clearly or listen actively to the other party's needs and concerns. This will often lead to miscommunication, lack of trust and parties who are unable to reach final agreements.

To avoid breakdowns in communication, it's important for the professionals involved to be prepared to both support the clients in facing these communication pitfalls and to be able to effectively implement strategies to manage each challenge before, during and after the process. Inherent in a truly effective collaborative process, is clear and effective communication among and between the professionals involved as well and having an agreed upon communication strategy will go a long way to setting the stage for a positive and successful collaborative process for all involved.

*Susan Guthrie® has been one of the leading family law attorneys and mediators in the country for more than 32 years and as world-wide expert in online mediation she has trained over 25,000 professionals in the tethical and practical considerations in transitioning to a virtual practice with her innovative Learn to Mediate Online® Program. In late 2020, Susan and legal legend, Forrest “Woody” Mosten partnered together to found the Mosten Guthrie Academy to provide top of the line training for family lawyers, mediators and collaborative professionals world-wide in a virtual format. Her award-winning podcast, The Divorce & Beyond® Podcast, is one of the top 1.5 % of podcasts worldwide and she is known to millions of listeners around the world as the “divorce voice you can trust!” She also produces and hosts the Make Money Mediating Podcast to support and advance dispute resolution professionals and practitioners. Susan regularly presents at professional events and conferences around the world and her recent featured programs and keynote addresses include the 2022 APFM Annual Conference, the 2022 NADN Annual Advanced Mediation Training Retreat, the 2022 NJAPM Annual Conference, the 2023 NYCDM Annual Conference and the 2023 CILS Symposium in Salzburg, Austria. She is honored to serve as the Vice-Chair of the ABA Section of Dispute Resolution and looks forward to leading the Section as Chair in 2024.*

[1] National Marriage Project Survey





# KEY ELEMENTS TO PLANNING, PREPARING AND EXECUTING PRODUCTIVE CONVERSATIONS

**By: Liz Becker**



**LIZ BECKER**

As a collaborative professional, one of your most important responsibilities is to engage in successful conversations with your clients and colleagues. These conversations are essential to the success of the collaborative divorce process and require careful planning and preparation to achieve their intended outcomes.

### **Setting Goals and Expected Outcomes**

The first step in preparing for a successful conversation with your clients or colleagues is to set clear goals and expected outcomes. This means taking the time to consider what you want to achieve from the conversation, and what success will look like.

By setting clear goals and outcomes, you can ensure that everyone involved is working towards the same objective and can measure the success of the conversation.

### **Collecting Proper Resources**

To have a successful conversation, you need to have the proper resources



to support your goals and objectives. These resources could include research materials, data, reports, or other relevant information that will help you make informed decisions and contribute to the conversation in a meaningful way. Taking the time to gather these resources and make them available to all involved in the conversation will ensure that everyone has the same information and can work together more effectively.

### **Preparing for the Conversation**

Once you have set your goals and identified the necessary resources, it's time to prepare for the conversation itself. This means selecting the right participants, choosing a suitable location, and scheduling a time that works for everyone. It's important to consider the personalities, perspectives, and expertise of each participant to ensure that everyone can contribute to the conversation in a meaningful way.

In addition, it's important to establish ground rules and expectations for the conversation. This could include things like time limits for each participant, guidelines for respectful communication, and a process for decision-making. By setting clear expectations upfront, you can ensure that the conversation stays focused and productive.

Another key element of this stage is preparing yourself mentally. Being in the right state of mind as you enter the conversation is paramount to how effective your communication will be and how well you will be heard and understood. When it comes to the divorce process, emotions run high, and not just with the clients, but the professionals as well.

### **Executing the Conversation**

During the conversation itself, it's important to stay focused on the goals and outcomes that you identified during the planning phase. This means keeping the conversation on track, addressing any challenges or obstacles that arise, and using the resources that you have collected to inform the discussion.

Active listening is also key to a successful conversation. This means being fully present and engaged and paying close attention to verbal and non-verbal communication. By actively listening to each other, you can build stronger relationships, foster trust, and work towards a common goal. What are you noticing about the other participants communication and what do you feel is important to point out? A mistake we often make

throughout conversations is feeling the need to point out other's resistances and doubts and overlook highlighting some of the positive expressions of their communication. Pointing out where the other person has successfully communicated during the conversation, will not only help you positively manage their emotional state but also helps elicit a sense of progress. Another advantage is to be able to use that specific example of successful communication during future moments of deadlock so you can gently remind that person when and how they communicated effectively.

Successful conversations with clients and colleagues are essential to the success of the collaborative divorce process. By setting clear goals and expected outcomes, collecting the proper resources, and preparing properly, you can ensure that your conversations are productive, focused, and effective. By following these strategies, you can build stronger relationships, foster greater cooperation, and ultimately manage a much smoother process.

**Liz Becker** is President & Founder of the National Association of Divorce Professionals. She is also a Licensed Neuro Linguistic Programming (NLP) Master Practitioner, Communications Skills Coach & Trainer, and has almost two decades of experience in working with both divorcing clients and the professionals who serve them. Liz is very proud to be considered a thought changer and divorce industry leader, all while being able to make a positive impact on the lives of the families going through the process, one professional at a time! Having worked in the divorce industry for so many years, she has a keen sense for detecting specific issues that create obstacles for all parties involved in the process which culminated in the Founding of the NADP and Certified Divorce Specialist (CDS) Program. Whether she was conducting NLP certification training, co-parenting workshops, coaching divorcing clients, or speaking at conferences, Liz has always found great reward in educating people on how to communicate more effectively and achieve positive change in their lives, both personally and professionally. Liz's present focus is working with Legal, Financial, and Real Estate companies, to make sure their staff is properly equipped with the right education and resources to provide stellar services to divorcing clients. Through the CDS Program, her students learn valuable communication skills in addition to gaining a holistic understanding of the key issues that arise throughout the divorce process, ultimately being able to manage a better divorce experience for everyone involved.

If you are interested in learning more, please visit [www.thenadp.com](http://www.thenadp.com) and [www.thecdstraining.com](http://www.thecdstraining.com).



# COLLABORATIVE LAW IS A MINDSET

**By: Susan Guthrie, Co-Founder  
Mosten Guthrie Academy**



**SUSAN GUTHRIE**

In recent years, there has been a growing recognition that traditional adversarial approaches to conflict resolution, particularly in legal practice, may not always be the most effective or efficient means of resolving disputes. Collaborative law has emerged as an alternative to traditional litigation, offering a more cooperative and problem-solving approach to resolving disputes.

To be an effective collaborative practitioner however, an attorney whose practice has been more traditionally litigation focused must undergo a paradigm shift in their thinking, moving away from the adversarial mindset that

is so deeply ingrained in the legal profession and embracing a more collaborative and holistic approach to conflict resolution.

.One of the most important aspects of this shift is a change in the way attorneys view their role in the process. In traditional litigation, attorneys often see themselves as warriors, fighting for their clients' interests and



trying to “win” the case at all costs. In collaborative law, however, the attorney’s role is more akin to that of a facilitator, helping clients to work together to find solutions that are mutually beneficial and meet their needs.

This requires a significant shift in the way attorneys approach their work. Rather than focusing solely on legal issues and strategies, collaborative practitioners must be able to think more broadly about the underlying interests and motivations of all parties involved. They must be skilled at identifying common ground and finding creative solutions that address the underlying interests of all parties, not just their legal positions.

Effective collaborative practitioners must also be skilled at building relationships and fostering trust between the parties involved in the dispute. This often requires attorneys to set aside their own egos and personal biases and focus on the needs and concerns of their clients and the other parties involved in the process.

Another critical aspect of the paradigm shift involved in collaborative law is a move away from the adversarial language and practices that are so prevalent in traditional litigation. Collaborative practitioners must be able to communicate effectively and empathetically, using language that is non-judgmental and non-confrontational. They must also be skilled at active listening and working with clients to identify and address their underlying concerns and needs.

Overall, the paradigm shift required to become an effective collaborative practitioner involves a move away from the traditional adversarial approach to conflict resolution and towards a more collaborative and holistic approach. This requires attorneys to be skilled at identifying common ground, building relationships, and communicating effectively and empathetically with clients and other parties involved in the process. Ultimately, it is this shift in thinking that will enable attorneys to successfully navigate the complex and often emotionally charged world of collaborative law, helping clients to find solutions that meet their needs and resolve disputes in a positive and constructive manner.

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