**THE LAW IN THE COLLABORATIVE PROCESS: WHERE, WHEN, AND HOW—**

**APPLICABLE STATUTES, RULES, AND GUIDELINES**:

1. **IACP Standards and Ethics**
	1. IACP Rule 1.2—Competence (“Collaborative Professionals must comply with professional conduct requirements applicable to their professions”).
	2. IACP Rule 2.2—Required Process Disclosures (“A Collaborative Lawyer must inform the prospective client(s) of the full range of process options available for addressing any legal matter(s), and provide information reasonable necessary to enable the client to make an informed process choice.”).
	3. IACP Rule 3.1—Disclosure of Information
		1. “The Collaborative Process requires the full and affirmative disclosure of all Material Information whether or not requested.”
		2. “The Collaborative Process requires clients and professionals to comply with all reasonable requests for information.”
	4. IACP Rule 3.2—Advocacy in the Collaborative Process
		1. “A Collaborative Professional will respect each client’s self-determination, recognizing that ultimately the clients are responsible for making the decision that resolve their issues.”
		2. “A Collaborative Professional will assist the client(s) in establishing realistic expectations in the Collaborative Process.”
2. **Uniform Collaborative Law Rules**
	1. Rule 13—Standards of Professional Responsibility and Mandatory Reporting Not Affected (these rules do not affect “the professional responsibility obligations and standards applicable to a lawyer or other licensed professional”).
	2. Section 14—Appropriateness of Collaborative Law Process (before a prospective party signs a collaborative law participation agreement, the prospective lawyer shall “provide the prospective party with information that the lawyer reasonably believes is sufficient for the party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives….such as litigation, mediation, etc.”).
3. **AAML Bounds of Advocacy**
	1. Bound of Advocacy 3.2—A Lawyer Must Educate the Client so the Client can Make Informed Decisions (“it is important for the lawyer to accurately and thoroughly advise the client and provide the client with a realistic assessment of the case, including strengths and weaknesses”).
4. **American Bar Association (ABA)—Model Rules of Professional Conduct**
	1. Rule 1.1—Competence (“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”).
	2. Rule 1.3—Communications (“a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation”).
	3. Rule 2.1—Advisor (“In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.”).
5. **The Rules Regulating the Florida Bar**

 ***RRTFB—General Rules that Apply to all Family Law Matters (including Collaborative)***

* 1. 4-1.1, *Rules Regulating the Florida Bar*—Competence:
		1. “A lawyer must provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.”
	2. 4-1.2(a), *Rules Regulating the Florida Bar*—Lawyer to abide by Client Decisions:
		1. “Subject to subdivisions (c) and (d), a lawyer must abide by a client’s decisions concerning objectives of representation and, as required by rule 4-1.4, must reasonably consult with the client as to the mean by which they are to be pursued.”
	3. 4-2.1, *Rules Regulating the Florida Bar*—Adviser:
		1. “In representing a client, a lawyer shall exercise independent professional judgment and render candid advice.”
		2. “A client is entitled to straightforward advice expressing the lawyer’s honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client’s morale and may put advice in as acceptable a form as honesty permits. However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.”
	4. 4-3.1, *Rules Regulating the Florida Bar*—Meritorious Claims & Contentions:
		1. “A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so…”
		2. “The law, both procedural and substantive, establishes the limits within which an advocate may proceed.”

***RRTFB—Securing Informed Consent in Opting into the Collaborative Law Process***

* 1. 4-1.4(a), *Rules Regulating the Florida Bar*—Communication:
		1. “A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client’s informed consent is required by the rules.”
		2. “A lawyer shall: (2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished.”
	2. 4-1.4(b), *Rules Regulating the Florida Bar*—Communication:
		1. “Duty to Explain Matters to Client. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”
	3. Comment to 4-1.4, *Rules Regulating the Florida Bar*—Communication:
		1. “The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.”

***RRTFB—General Rule Regarding the Collaborative Law Process***

* 1. 4-1.19, *Rules Regulating the Florida Bar*—Collaborative Law Process in Family Law:
		1. Duty to Explain Process to Client in order to obtain the informed consent of a client (including a discussion of the material benefits and risks of the Collaborative Process and alternatives to the Collaborative Process).
1. **International Bar Association (IBA)—International Principles on Conduct for the Legal Profession**
	1. Principle 5—Clients’ Interest (“A lawyer shall treat client interests as paramount, subject always to there being no conflict with the lawyer’s duties to the court and the interests of justice, to observe the law, and to maintain ethical standards”).

**For additional information:**

<https://www.collaborativepractice.com/sites/default/files/IACP%20Standards%20and%20Ethics%202018.pdf>

<https://www.collaborativepracticeflorida.com/collaborative-standards-and-ethics-foundational-or-merely-aspirational/>

<https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/>

<https://www.ibanet.org/document?id=IBA%20International%20Principles%20on%20Conduct%20for%20the%20Legal%20Profession%20(2018)>