



MANDATORY

FINANCIAL DISCLOSURES

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OVERVIEW OF THE PROCESS

Exchanging Mandatory Financial Disclosures is one of the very first steps in every divorce and child custody¹ case in the State of Colorado. In short, state law mandates that each party² reveal their income, debts, assets, and regular monthly expenses to the other party. In doing so, both sides approach the Court with honesty and transparency so the judge can decide how best to divide everything (in a divorce) and/or calculate child support.

BASIC EXPLANATION

First, your attorney will present you with a checklist of documents that are relevant to your case and notify you of the deadline to submit them. The required documents differ by whether this is a new case (“pre-decree”) or a case in which a Decree has already been issued and a new Motion has been filed (“post-decree”). The deadline for submission is incredibly important. If a party misses this deadline, the court may “punish” that party by making them pay the other party’s attorney’s fees, limiting what they can present as evidence in a future Hearing, or by assuming the party is acting in bad faith when deciding how to divide assets. The earlier you can provide documents to your attorney, the better.

The deadline to submit Mandatory Financial Disclosures is forty-two (42) days after service has been performed upon the non-petitioning party (“Respondent”). In other words, once both parties are aware that a case has been initiated, the clock starts. Your attorney will need time to review everything you submit – as a rule of thumb, submit everything you can within thirty (30) days.

Second, you need to take the time to retrieve all of the required documents. If you have a document that is on the checklist your attorney provides to you, you must submit it. Retrieving documents may involve requesting tax returns from your CPA, downloading statements from your bank, requesting proof of payments from your childcare provider, or simply digging through a box of files in your home. The more accounts, debts, and financial obligations you have, the more documents you will need to provide. Give yourself ample time, and provide these documents to your attorney as soon as they become available.

Third, your attorney will review everything you have submitted, possibly request items that are missing, and draft a Sworn Financial Statement and Certificate of Compliance on your behalf. These are documents that are required for each party to complete and file with the court by the deadline. The Sworn Financial Statement is a summary of all of your financial figures: the value of your home, your salary, the estimated amount you spend on groceries each month, etc. The Certificate of Compliance will list all of the documents you have

1. “Divorce” is now officially called “Dissolution of Marriage,” and “child custody” is now “Allocation of Parental Responsibilities.” Allocation of Parental Responsibilities includes both physical custody, or “parenting time,” and legal custody, or “decision-making.”

A “party” is simply anyone who is directly involved in a case, either represented by an attorney or without representation (“pro se”). The party that starts a case by “petitioning” for a certain result (e.g., dissolution of their marriage or allocation of parental responsibilities over their child(ren)) is the “Petitioner,” making the soon to be ex-spouse or other biological parent the “Respondent.”

provided to the other party and the date upon which you provided them. Both documents require your signature, swearing that you have complied with the requirements for Mandatory Financial Disclosures and that all of the information you have provided is true.

Please note that the Judge will not be reviewing your bills, receipts, paychecks, or any other kind of supporting financial documentation as part of this process. The Judge will review the Sworn Financial Statement and Certificate of Compliance, and trust that the parties will bring it to the Judge's attention if there is a problem with either party not providing full disclosure. The actual exchange of documents happens privately between the parties through their attorneys.

Fourth, your attorney will review the documents that have been submitted by the other party. You should review them and provide feedback to your attorney, as is true for all documents in your case. If any amounts stated on the other party's Sworn Financial Statement seem inaccurate, or there is supporting documentation missing, your attorney will determine if it is necessary to send a Deficiency Letter to the opposing party requesting they provide whatever is missing. If the other party fails to provide the missing information, your attorney will determine if it is necessary to send a Motion to Compel with the Court, stating what is missing and why you are entitled to it. If the other party still fails to act, the Court may impose sanctions upon them or hold a Hearing on financial disputes.

Fifth, you have a continuing duty to provide updated financial statements to your attorney. This is particularly relevant for documents such as bank statements, credit card statements, and paychecks. Your attorney will work with you to determine when updated information needs to be provided to – or demanded from – the other party.



LEGAL BASES

Colorado Rule of Civil Procedure (C.R.C.P.) Form 35.1

This form contains every type of document that must be disclosed, if applicable.

Judicial Department Form (JDF) 1111: Sworn Financial Statement

This form provides the format in which Sworn Financial Statements must be filed.

JDF 1115S: Supporting Schedule for Sworn Financial Statement

If a party has investment accounts, retirement funds, separate property, or certain miscellaneous assets, they must file this supporting schedule with their Sworn Financial Statement.

JDF 1104: Certificate of Compliance with Mandatory Financial Disclosures

This form provides the type of information that must be included in a Certificate of Compliance.

C.R.C.P. 16.2(e)(1)

This section of the law outlines the “duty of full and honest disclosure” owed by each party to a domestic relations case.

C.R.C.P. 16.2(e)(2)

This section of the law requires that a Sworn Financial Statement be filed, and Mandatory Financial Disclosures exchanged, within forty-two (42) days after service of a petition or post-decree motion upon the other party.

C.R.C.P. 16.2(j)

This section of the law enables a judge to impose appropriate sanctions upon a party that has not complied with the requirements for financial disclosure.

C.R.C.P. 26(2) & C.R.C.P. 16.2(e)(4)

These sections of the law speak to the continuing duty of each party to supplement its disclosures in a timely manner following the initial exchange.

CHECKLIST: PRE-DECREE

Sworn Financial Statement	Real Estate Documents – Marital	Childcare invoices
Recent Federal Tax Returns	Real Estate Documents – Separate	Child tuition statements
Recent State Tax Returns	Investment account statements	Child therapy invoices
Recent Form W-2s	Retirement account statements	Child extracurricular invoices
Recent Form 1099s	Checking account statements	Life insurance policy
Loan & credit applications	Savings account statements	Health insurance policy
Credit & store card statements	HSA account statements	Home or Renters insurance policy
Personal loan statements	Trust documentation	Auto insurance policy
Auto loan statements	Recent paychecks	Vehicle registration
Student loan statements	Last paycheck of 2021	Business Tax Returns
Medical invoices	Employee benefits	Business Form K-1s
Collection letters, judgments	Self-Employment affidavit	Business bank account statements
Promissory notes	Proof of child support payments	Business credit & loan statements

CHECK LIST : POST-DECREE

Sworn Financial Statement	Real Estate Documents – Separate	Childcare invoices
Recent Federal Tax Returns	Investment account statements	Child tuition statements
Recent State Tax Returns	Savings account statements	Child therapy invoices
Recent Form W-2s	HSA account statements	Child extracurricular invoices
Recent Form 1099s	Trust documentation	Vehicle registration
Loan & credit applications	Recent paychecks	Business Tax Returns
	Last paycheck of 2021	Business Form K-1s
	Employee benefits	Business bank account statements
	Self-Employment affidavit	Business credit & loan statements
	Proof of child support payments	



TIPS

(1) Accept that this will be a time-consuming process, and commit to taking the steps necessary to complete this Court-ordered requirement.

You are in the best possible position to gather and provide the information and documents necessary to establish your income, debts, assets, and expenses. Start gathering documents as soon as possible. Remember that gathering certain documents may necessitate submitting requests to outside professionals or financial institutions.

(2) Tell your attorney about documents you cannot access.

It may be the case that the opposing party has control over certain documents and is unwilling to provide them to you. This is not uncommon and can be presented to the court. Otherwise, you must make reasonable efforts to obtain all documents that apply to you.

(3) Save time by knowing what you do not need to provide.

As long as the amounts you provide for your monthly expenses are reasonable, such as \$200 for parking and fuel, you do not need to provide receipts of regular purchases or utility bills. As well, these items are often reflected in bank or credit card statements. However, your attorney will inform you if the circumstances of your case require any unique documentation.

(4) Provide as much information as possible on your Sworn Financial Statement.

If there is relevant information missing from your Sworn Financial Statement, your attorney will work with you to determine what that information is. However, you can save time and money by providing as much information upfront as possible.

(5) If possible, send your documents to your attorney electronically.

Your attorney can accept your documents in-person at the office, by fax, or by mail. However, all documents will need to be converted to an electronic form (PDF). To expedite the process, submit your documents by email, DropBox, or another online document platform whenever possible.

(6) Do not be shy about your debts and expenses.

It is usually in your favor to declare all debts and expenses. These amounts will be subtracted from your income and assets when the court is determining how to divide everything between you and the opposing party.

(7) Trust that your attorney will filter out what doesn't need to be disclosed, submit everything you can within thirty (30) days.

If you are unsure, it is best to send your attorney anything and everything that may be relevant. Your attorney will only disclose what is required to the opposing party. As well, your attorney will redact your social security number and any account numbers from your documents prior to exchanging them with the opposing party.



FREQUENTLY ASKED QUESTIONS

Do I really have to disclose all of this information?

Yes, as required by state law. No matter who the party is, or what the circumstances are, everyone in a divorce or child custody proceeding must provide Mandatory Financial Disclosures. The exception to this rule is that it is possible for parties to agree to settle their finances privately. If you are willing and able to work with the opposing party to agree on finances, speak to your attorney about filing a Joint Stipulation.

What if I can't retrieve everything by the deadline?

There are two options for parties that cannot meet the deadline for mandatory financial disclosures. Your attorney can file a Motion for Enlargement of Time, requesting that the court extend the deadline for the amount of time your attorney deems reasonable, or your attorney can file the Sworn Financial Statement and Certificate of Compliance on time and "supplement" supporting documents when they become available.

What if I have property or debts that weren't part of the marriage?

This is called "separate property." Documentation of all property needs to be provided, but your attorney will indicate to the court what you wish to present as property that existed before or outside of the marriage.

What if I think the other party is hiding money or assets?

Communicate any concerns you may have about the opposing party's assets or debts to your attorney. As well, when the opposing party's Sworn Financial Statement and supporting documentation is provided, bring any missing items to the attention of your attorney. As detailed above, your attorney will determine if it is necessary to send a Deficiency Letter upon the opposing party and potentially a Motion to Compel, if needed.



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