

Excerpted from [“Practical Insights from an Empirical Study of Cooperative Lawyers in Wisconsin”](#):

The Collaborative Law movement has developed a process to reverse the traditional presumption of adversarial legal representation. In the Collaborative model, lawyers and parties sign a “participation agreement” that sets out a negotiation process intended to produce an agreement that is fair for both parties. Typically, the participation agreement includes terms committing parties to negotiate in good faith, act respectfully toward each other, disclose all relevant information, use jointly retained experts, protect confidentiality of communications, and refrain from formal discovery and contested litigation during negotiation. A “disqualification agreement” is an essential element of the Collaborative model. It provides that if any party litigates (or threatens litigation), all the lawyers are disqualified from representing the parties, who must hire new lawyers if they want legal representation. . . A small, new “Cooperative” movement has started to grow in the shadow of the Collaborative movement. Cooperative Practice is similar to Collaborative Practice in that both are designed to promote early and productive negotiation intended to benefit both parties. Conceptually, the key distinction is that Cooperative Practice does not include a disqualification agreement.