

Divorce: Mediation vs. Collaborative vs. Litigation

	<i>Mediation</i>	<i>Collaborative</i>	<i>Litigation</i>
Who Controls the Process	You and your spouse control the process and make final decisions	You and your spouse control the process and make final decisions	Judge controls the process and makes final decisions
Degree of Adversity	You and your spouse pledge openness	You and your spouse pledge mutual respect and openness	Court process is based on an adversarial system
Cost	Costs are manageable, usually less expensive than litigation	Costs are manageable, usually less expensive than litigation; team model is financially efficient in use of professionals	Costs are unpredictable and can escalate rapidly including frequency of post-judgment litigation
Timetable	You and your spouse create the timetable	You and your spouse create the timetable	Judge sets the timetable; often delays given crowded court
Use of Outside Experts	Use of outside experts is limited but they can be involved as needed	Jointly retained specialists provide information and guidance helping you and your spouse develop informed, mutually beneficial solutions	Separate experts are hired to support the litigants' positions, often at great expense to each
Involvement of Lawyers	Lawyers typically do not participate directly in mediation sessions, but are consulted between sessions	Lawyers work toward a mutually created settlement	Lawyers fight to win, but someone loses
Privacy	The process, discussion and negotiation details are kept private	The process, discussion and negotiation details are kept private	Dispute becomes a matter of public record and, sometimes, media attention
Facilitation of Communication	Mediator facilitates communication during sessions	Team of Collaborative Practice specialists educate and assist you and your spouse on how to effectively communicate with each other	No process designed to facilitate communication
Voluntary vs. Mandatory	Voluntary	Voluntary	Mandatory if no agreement
Lines of Communication	You and your spouse communicate directly with the assistance of mediator	You and your spouse communicate directly with the assistance of members of your team	You and your spouse negotiate through lawyers
Children's Participation	Children are not directly involved	Children are interviewed by the Child Specialist professional who helps the parents discuss the children's needs	A lawyer appointed as <i>guardian ad litem</i> interviews children and makes a recommendation to the Judge
Court Involvement	Outside court	Outside court	Court-based

This comparison table has been adapted from materials in the Collaborative Divorce Knowledge Kit provided by the International Academy of Collaborative Professionals and available at www.collaborativepractice.com

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