

Approaches to Divorce

	Mediation	Collaborative	Litigation
When to Use	Any matter in which the parties are willing to work together with neutral mediator, or the court orders parenting or financial mediation	Cases where the parties want to work together to reach a resolution but feel they need an advocate in meetings to help them do so	Cases where the parties cannot work together, where there is a power imbalance, or suspect spouse is hiding assets, or history of abuse
Confidentiality	All documents prepared for the mediation, and all matters discussed in the mediation, are confidential. The only public document is the final judgment	All documents prepared for the collaborative negotiations, as well as all matter discussed in the sessions, are confidential. Only the final judgment is a public document	Generally all pleadings are public records. This is the least private of the processes
Result	Mediator facilitates agreement, attorneys draft agreement, which, when signed, is filed with the court and becomes enforceable by a court	The collaborative lawyers draft an agreement, which, when signed, is filed with the court and becomes enforceable by a court	Usually a negotiated settlement. If spouses cannot agree, the judge issues a final decision, which can be appealed
Unique Benefits	<ul style="list-style-type: none"> - Control over the outcome and the timing - Potential cost savings - Privacy - Customize the settlement based on specific family's needs - Parties can share their perspective 	<ul style="list-style-type: none"> - More cooperative, non-adversarial environment than traditional - More control over the process and expenses - Privacy and customization of settlement - Professionally trained team analyzing all aspects of the divorce with settlement as the main objective - Parties can share their perspective 	<ul style="list-style-type: none"> - It may be the only choice left after all else fails and compromise is not an option - Decisions can be appealed - Parties might get their day in court but cannot share their perspective
Potential Drawbacks	<ul style="list-style-type: none"> - Mediation is inappropriate if one party, or both, are unable or unwilling to work together to come to a resolution - Cases where there is a history of domestic violence or an imbalance between the parties may not be right for mediation - A mediator cannot give legal advice 	<ul style="list-style-type: none"> - If either party is unable to effectively communicate with their spouse, collaborative divorce may not be the right fit - Collaborative divorce may not be effective if couples are not willing to compromise - Cases involving issues such as domestic violence, drug and/or alcohol abuse, or mental disabilities/disorders may not be appropriate - Potentially higher costs than mediation 	<ul style="list-style-type: none"> - Less control: the judge decides - Trials are open to the public, as are all pleadings and papers filed with the court - Trials can take a lot of time - It can be very expensive, financially and emotionally - Co-parenting successfully can be difficult following a trial