

## Collaborative Divorce vs. Mediation: What's the Difference?



Collaborative divorce and mediation have one important thing in common; both processes are designed to help maintain a healthy and peaceful dynamic while you move on with your lives. If you and your spouse have decided to go your separate ways, but are still able to communicate with respect, a traditional divorce may not be necessary. So how do you know whether mediation or collaborative divorce is a better option for you? There are three important factors that you may want to take into consideration.

1. **Power imbalance.** In a mediation without attorneys, the spouse with greater power in the relationship may have more control over the result. For instance, a stay-at-home parent who has never been in charge of the finances may have a difficult time asking for what he or she needs due to a lack of knowledge about the finances. Because the mediator is a neutral party, he or she cannot step in and advocate for the spouse with less power. In the collaborative process, each party has representation to make sure that the power imbalance will not affect the outcome. The lawyers, in fact, will work together to smooth out any imbalance in order to reach a fair agreement.



2. **Advocacy.** Divorce can be a stressful process, and everyone manages the stress differently. Without an objective advocate, it is oftentimes difficult for a spouse to think through the complex personal and financial issues that need to be resolved in a divorce. While a mediator can help you and your former partner find common ground, they can not provide the personal support you may need. The collaborative process provides individual support to help the parties manage their emotions and keep them from getting in the way of the best possible outcome.



3. **Interest-based negotiation.** Even though mediation is based around the idea of amicably reaching agreement, it can still use positional negotiation; each party takes a stance and the mediator helps them meet in the middle. Collaborative divorce uses personal negotiation. Both parties try to reach an agreement based upon their interests rather than hard positions they are trying to protect. A mediator may be happy with an agreement that both spouses may feel as if they have compromised too much on. In a collaborative divorce, the full team works with the parties to reach an agreement that they both accept.



Like your relationship and marriage, divorce is a unique process that differs with each couple. There is no right answer, and some couples may find that a mediator is all they need to find resolution. By taking the time to consider the factors that will influence the process, you can decide how to proceed in your divorce, whether that be mediation, collaborative, or even litigation if necessary.