

IS MEDIATION RIGHT FOR YOU?

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Mediation can oftentimes be confused with arbitration or seeking legal advice. Here are some brief differences among the options:

	Attorney	Mediator	Arbitrator
Legal Advice	Attorneys can give you specific legal advice tailored for your situation.	Mediator cannot give legal advice. Participants should have their own consulting attorney.	Arbitrators are like judges and do not give legal advice.
Drafting Papers	Attorneys can draft and submit papers for court.	Mediators who are attorneys can draft papers, such as a settlement agreement or parenting plan. Parties are encouraged to review the papers with a consulting lawyer before signing. Alternatively, the mediator can draft a Memorandum of Understanding.	Arbitrators will only draft decisions much like a judge.
Appearances in Court	Attorneys can appear in court on your behalf.	Unless waivers are signed and there is permission from the court, mediators will not appear in court. Mediators should not be subpoenaed to testify.	An arbitration is an informal court proceeding where evidence is presented and testimony may be taken. Arbitrators do not appear in court.
Negotiation	Attorneys can negotiate with the opposing party or counsel. Attorneys can attend mediation sessions and arbitration sessions.	The mediator helps facilitate negotiation.	The arbitrator is not negotiation a settlement; instead, he or she
Legal Issues		Everything except for Orders of Protection/ domestic violence.	Economic issues only (not allocation of parental responsibilities)
Confidentiality / Attorney-Client Privilege	Confidentiality and Attorney-Client Privilege apply	Confidential / no Attorney-Client Privilege (mediator is not giving legal advice)	No attorney-client privilege; look at arbitration rules re: confidentiality