

**WISCONSIN BIRTH TO 3 PROGRAM MEDIATION SYSTEM
AGREEMENT TO MEDIATE**

We hereby agree that _____ will be the Mediator regarding case #:

Parties:

Child:

We understand and agree to the following:

I. PURPOSE OF MEDIATION: We, the undersigned, understand that the goal of mediation is to develop a satisfactory resolution to our issues by identifying areas of agreement and disagreement, and to work together to explore options for settlement.

II. ROLE OF THE MEDIATOR: The mediator does not have the authority to impose a settlement and no person shall serve as a mediator in any case, in which the mediator has any financial or personal interest in the result of the mediation. Before accepting the role as a mediator, the prospective mediator shall disclose to us any circumstances likely to create a perception of bias or to delay the mediation. If such a situation exists, we may agree to have another mediator from the roster appointed to the case. Further, if during the course of the mediation, the mediator becomes aware of any conflict of interest, the mediator will immediately disclose the conflict to us and we may choose to waive the conflict in writing or have another mediator appointed from the roster.

III. IMPARTIALITY OF THE MEDIATOR: We understand that:

- a) The mediator will remain impartial in all contacts with either party and that she/he will not advocate any interest of either party over the other;
- b) The mediator, whether an attorney or not, shall not provide legal advice to the parties, if legal questions arise, the parties shall seek independent legal counsel;
- c) If the mediator is an attorney, the mediator will only mediate between us, and therefore, will never represent either of us as attorney of record or in any adversary capacity in any legal proceeding in the future regarding our issues.

IV. THE MEDIATION PROCESS: The mediation shall be conducted at a time and place that is convenient to everyone. We understand that:

- a) We may be represented or accompanied by person(s) of our choice with the consent of the other parties. The representative(s) may or may not be attorneys or advocates;
- b) The process may include both separate and joint meetings. We understand that conversations in the separate sessions are confidential, unless the party in the private session agrees to have it disclosed in a joint session;
- c) The mediator may receive oral and/or written recommendations for settlement from us as necessary;
- d) The mediator may seek expert advice regarding technical aspects of the dispute, however, the mediator will consult with us if there are any costs or expenses related to the advice, inform us of the costs and seek our agreement to assume the expenses before proceeding;

e) If mediation results in a written agreement, we agree that the written agreement must include the following language “All discussions that occur during mediation are confidential and may not be used as evidence in any due process hearing or civil proceeding.”

V. CONFIDENTIALITY OF THE MEDIATION PROCESS: The confidentiality of the mediation process shall be governed by Wis. Stat. 904.085. We shall maintain the confidentiality of the mediation and shall not rely on or introduce as evidence in any subsequent proceeding, whether that proceeding is judicial, administrative, or arbitral any of the following:

- a) Views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
- b) Admissions made by another party in the course of the mediation;
- c) Proposals made or views expressed by the mediator, or;
- d) The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator. The mediator will destroy his or her notes and written materials at the conclusion of the mediation.

Further, we agree that there shall be no stenographic or other record made of the mediation process.

VI. WITHDRAWING FROM MEDIATION: We understand that either party or the mediator may withdraw from mediation at any time. The mediation may be terminated by the following methods:

- a) A statement by any of the parties indicating that they no longer wish to proceed in mediation;
- b) A statement by the mediator indicating that in her/his belief that further mediation sessions will not contribute to the resolution of the dispute or:
- c) The execution of a settlement agreement signed by us.

VII. EXCLUSION OF LIABILITY: We understand that the mediator is not a necessary party in any subsequent proceeding relating to the mediation. Neither the Wisconsin Department of Health Services (DHS); an individual or entity working with DHS; any mediator; or the Wisconsin Birth to 3 Mediation System shall be liable to any party for any act or omission in connection with any mediation conducted under this agreement.

VIII. COSTS AND EXPENSES: We understand that services of the mediator are provided by DHS without cost to us. DHS will not pay for any participant’s attorney fees or any other costs associated with mediation (e.g. mileage, lodging, wage loss, etc.).

IX. REPORTING FORMS: By signing this form, I am acknowledging that I will receive a Birth to 3 Program Post-Mediation Participant Form. I understand that the non-identifying information on this form is helpful to the Birth to 3 Mediation System in maintaining the high quality of the mediation services and is helpful in providing feedback to our mediator.

X. SIGNATURES: This agreement may be signed in separate identical copies. When all copies are brought together, it shall be considered the same as if we had all signed the same copy.

Date: _____

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(party or representative) (Email address optional)

Signed: _____
(mediator)

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February 2013