

AGREEMENT TO MEDIATE:

Robert E. Emery, Ph.D.

We the undersigned agree to voluntarily enter the mediation process and understand and consent to the following:

1. **Definition of Mediation:** Mediation is a process in which a neutral facilitates communication between the parties and, without deciding the issues or imposing a solution on the parties, enables them to understand and reach a mutually agreeable resolution to their dispute.
2. **Role of the Mediator:** The mediator acts as a facilitator, not an advocate, judge, jury, counselor, or therapist. The mediator assists the parties in identifying issues, reducing obstacles to communication, maximizing the exploration of alternatives, and helping parties reach voluntary agreements.
3. **Mediator's Style/Approach:** The mediator facilitates the parties' conversation and discussion of issues, may make suggestions or raise concerns about various alternatives, but he will not tell the parties what to do or make recommendations outside of mediation.
4. **The Mediation Process:** The process will include an opportunity for all parties to be heard, the identification of issues to be resolved, the generation of alternatives for resolution, and if the parties so desire, the development of a Memorandum of Understanding.
5. **Other procedures to be used during the mediation include:** Individual meetings with the parties (caucusing), emails, telephone calls, and communications outside of mediation, as necessary, all of which will be treated as confidential (i.e., as a part of the mediation process).
6. **Confidentiality:** All memoranda, work product and other materials contained in the case files of a neutral or dispute resolution program are confidential. Any communication made in or in connection with the dispute resolution proceeding which relates to the controversy, including screening, intake, and scheduling a dispute resolution proceeding, is confidential.

Confidential materials and communications are not subject to disclosure in discovery or in any judicial or administrative proceeding **except** (i) where all parties to the dispute resolution proceeding agree, in writing, to waive confidentiality, (ii) in a subsequent action between the neutral or dispute resolution program and a party to the dispute resolution proceeding for damages arising out of the dispute resolution proceeding, (iii) statements, memoranda, materials, and other tangible evidence, otherwise subject to discovery, which were not prepared specifically for use in and actually used in the dispute resolution proceeding, (iv) where a threat to inflict bodily

injury is made, (v) where communications are intentionally used to plan, attempt to commit, or commit a crime or conceal an ongoing crime, (vi) where an ethics complaint is made against a neutral by a party to the dispute resolution proceeding to the extent necessary for the complainant to prove misconduct and the neutral to defend against such complaint, (vii) where communications are sought or offered to prove or disprove a claim or complaint of misconduct or malpractice filed against a party's legal representative based on conduct occurring during a mediation, (viii) where communications are sought or offered to prove or disprove any of the grounds listed in Section 8.01-576.12 in a proceeding to vacate a mediated agreement or (ix) as provided by law or rule.

7. Mediators are mandatory reporters of child abuse. (Virginia Code Section 63.2-1509) This information will not remain confidential.
8. In domestic relations cases involving divorce, property, support or the welfare of a child, each party agrees to provide substantial full disclosure of all relevant property and financial information.
9. The mediator does not provide legal advice. Parties are encouraged to seek the advice of independent counsel at any time. Any mediated agreement may affect the legal rights of the parties. Each party to the mediation should have any draft agreement reviewed by independent counsel prior to signing the agreement.
10. Fees for mediation are \$200.00 per hour, including for work done outside of face to face meetings including but not limited to emails, drafting agreements, and related matters. Fees will be divided equally between the parties, unless they agree to another arrangement, except that each party will be charged the full fee separately for extended individual contacts/communications.

Mother	Date
Father	Date
Mediator	Mediator