

CPEB

Facilitation and Confidentiality Agreement for Team Professionals

The goals of the facilitation process are to provide a safe and confidential place to (1) have a facilitated debriefing of a case, or (2) address process issues that develop in a case or on a committee, or (3) address the working relationship among professionals. The process is discussed in the CPEB Facilitation Protocols that are attached to this agreement. We agree that we are participating in the process as outlined in the protocols.

In order to create a safe and protective atmosphere for the professionals, as well as to ensure confidentiality for the clients, the facilitation in which we are participating shall be a mediation process as defined by California law for the purpose of confidentiality of all aspects of the proceeding, and the facilitator(s) shall be deemed to be mediator(s).

We understand that we are participating in a facilitation process pursuant to the CPEB Facilitation Protocols. The Protocols are attached to and incorporated in this Agreement.

Each facilitator agrees to donate two hours of his/her time without compensation.

We, the participants in the facilitation, agree to share equally the cost of a facilitator’s time to the extent it exceeds two hours, which shall be charged at the following rate:

\$_____ for _____

\$_____ for _____

We understand that California law provides that statements, admissions, and writings made during mediation are confidential. We have received copies of the Evidence Code Sections 1119 and 1125 as attached. We further understand that California law provides certain conditions under which a mediation is considered terminated. We agree that the Evidence Code providing that a mediation terminates when there is no communication between the mediator and the participants for ten (10) days will not end our mediation. We are modifying Evidence Code §1125 so that our mediation will end when we have either reached an agreement as defined by the statute or any participant or facilitator sends a letter to all participants in the facilitation stating that the mediation is over.

Participants

Dated: _____

Dated: _____

Dated: _____

Dated: _____

Facilitator(s)

Dated: _____

Dated: _____

California Evidence Code §1119

1119. Written or oral communications during mediation process; admissibility

Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation shall remain confidential

California Evidence Code §1125

1125. End of mediation; satisfaction of conditions

(a) For purposes of confidentiality under this chapter, a mediation ends when any one of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that fully resolves the dispute.

(2) An oral agreement that fully resolves the dispute is reached in accordance with Section 1118.

(3) The mediator provides the mediation participants with a writing signed by the mediator that states that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121.

(4) A party provides the mediator and the other mediation participants with a writing stating that the mediation is terminated, or words to that effect, which shall be consistent with Section 1121. In a mediation involving more than two parties, the mediation may continue as to the remaining parties or be terminated in accordance with this section.

(5) For 10 calendar days, there is no communication between the mediator and any of the parties to the mediation relating to the dispute. The mediator and the parties may shorten or extend this time by agreement.

(b) For purposes of confidentiality under this chapter, if a mediation partially resolves a dispute, mediation ends when either of the following conditions is satisfied:

(1) The parties execute a written settlement agreement that partially resolves the dispute.

(2) An oral agreement that partially resolves the dispute is reached in accordance with Section 1118.

(c) This section does not preclude a party from ending a mediation without reaching an agreement. This section does not otherwise affect the extent to which a party may terminate a mediation.