PRELIMINARY PLANNING

- Meet with each party separately; listen to their account of the dispute
  - Assess what the primary issues are in the dispute; work with the third party to assess what they consider to be the options and ways to move forward in resolving the dispute
  - Employee X’s issue is that Employee Y stated or did xxx.
  - Employee Y’s issue is that Employee X stated or did xxx...
- Questions to ask each party include:
  - What is the problem as you perceive
  - What does the other person do that contributes to the problem?
  - What do you want or need from the other person?
  - What do you do that contributes to the problem?
  - What first step can you take to resolve the problem?
- Review the Mediation Process Summary, Good Faith, Ground Rules, Opening Statement documents with all parties. Provide copies of these documents to each party.
- After meeting with the parties, send all parties the Interest-Based Mediation memorandum outlining the date, time and location of the mediation
  - Include information on the Mediation Process Summary, Good Faith, Ground Rules, and the Opening Statement documents, the agenda as you understand it from meeting with each party
- Mediation Site Preparation & Parties Arrival
  - Determine the best room to meet in; prepare an additional room for caucuses; determine the best seating arrangement that will be conducive to the mediation, etc.

STEP 1: MEDIATOR’S OPENING STATEMENT

INTRODUCTIONS

- Reiterate mediators’ role
  - To be an impartial facilitator, not an advocate or judge
  - To assist parties in arriving at their own solutions
- Reiterate the role of the parties
  - To mediate in good faith
  - To share all pertinent information
  - To be willing to listen
  - To be willing to negotiate without holding to a fixed position
  - To keep an open mind

MEDIATION AGREEMENT ACKNOWLEDGEMENT

- Confirm each party received the mediator’s letter and attached documents
- Have each party sign the Commitment to Mediate document
  - A copy can be provided to each party after the mediation process has ended
MEDIATOR CHECKLIST FOR MEDIATION

GROUND RULES
☐ Review the Ground Rules document with all parties

VOLUNTARY AND CONFIDENTIAL PROCESS
☐ All parties are voluntarily present and can leave at any time
☐ Parties are present to reach an agreement
☐ Parties agree to maintain confidentiality during process

PROCESS OVERVIEW
☐ Each party will have UNINTERRUPTED time (5-10 minutes) to present opening statement
☐ Mediator and all parties will develop an agenda/list of items to discuss
☐ The mediator may call a caucus when necessary; parties can request a caucus
  ▪ A caucus is a confidential meeting between the mediator and one party; after a caucus
    with one party, check with the other party to provide equal opportunity
☐ The focus is on the WIN/WIN approach
☐ Mediation sessions can last 2 to 3 hours; some sessions can go on longer
  ▪ Subsequent mediation sessions may need to be scheduled

QUESTIONS
☐ This is time for parties to ask question regarding mediation process

STEP 2: PARTIES’ OPENING STATEMENTS
☐ Remind parties of their “Good Faith” agreement
☐ Determine party to begin opening statement (usually the person who requested mediation)
☐ Each party presents an opening statement fully to explain issues, concerns, chronology, and
  resolution sought. (5 to 10 minutes each)
☐ Listen for substantive, emotional, and procedural issues
☐ Listen for common-ground issues between the parties
☐ If party is vague, intervene in the opening statement and ask clarifying questions
☐ Use body language and eye contact to keep the attention of the other party
☐ Acknowledge and validate the speakers’ concerns
☐ Follow each opening statement with feedback using the communication skill of reflecting,
  to restate the emotional and factual content of the party’s initial statement
☐ Ask “How would you like to see this resolved today?”
☐ Thank the party for sharing their information; Thank the next party for listening and being
  patient; recognize the difficulty of emotional situations
☐ Ask the next party to proceed with their opening statement
☐ When each party has concluded their opening statement, ask each party to clarify the
  dispute taking into consideration the perspective of the other party
☐ Provide a statement to transition into Agenda Building

STEP 3: BUILDING THE AGENDA
☐ Identify the areas that need resolution and build the framework for further discussion
☐ Clarify agenda items
  ▪ Suggest items the disputants may have overlooked or forgotten
☐ Inform parties that this step is the first solid opportunity to work towards a common goal;
  remind parties to communicate and listen carefully
Parties must agree on the agenda items
  ▪ This is a point in the process where parties begin to leave the past, look to the future, and seriously consider what they want from the mediation

**STEP 4: JOINT DISCUSSION/NEGOTIATIONS**
- Mediator summarizes the parties' opening statements
- Assist the parties to focus less on their positions and more on their interests
- Encourage parties to ask clarifying questions so issues can be properly identified and discussed
- Encourage parties to discuss the issues more with each other rather than the mediator
  ▪ If the parties are unable to communicate with each other, continue to serve as the buffer between the two
  ▪ If the parties become stuck, ask them to brainstorm (Brainstorming Worksheet)
- Conduct private, confidential caucuses with each/one party for private/sensitive issues as necessary

**STEP 5: WRITTEN AGREEMENT AND CLOSURE**
- Bring the process to a close with agreement, either partial or in full; each party will receive a copy of the signed document
  □ Review agreed upon solutions
  □ Write the proposed solution; all parties must review and sign
  □ Each party will receive a copy of the written, signed agreement
- Bring the process to a close without agreement; each party will receive a copy of the signed document
  □ Inform parties while the mediation has ended, the mediation process is not necessarily over, and either one or both parties may reconsider their decision to stop
  □ Provide appropriate follow-up with both parties; the goal is to bring parties back at the table and an eventual settlement
  □ Congratulate the parties for availing themselves of the process and encourage them by recounting any progress that was made during the mediation.

**STEP 6: POST MEDIATION ACTIONS**
- Put together mediation file
  □ Destroy all notes
  □ File includes: Interest-Based Mediation memorandum, all signed documents (Commitment to Mediate, Mediation Agreement or Mediation Failure Notice)
- Submit original documents to the HRRR Investigator/Mediator
- Keep a copy of this file for your records