

Discrimination Complaint Procedures

Attachment B

Consent to mediate form

AGREEMENT TO PARTICIPATE IN MEDIATION

We, the undersigned parties, understand and agree to the following in executing this "Agreement to Participate in Mediation":

Definition of mediation. Mediation is a process in which a neutral (the mediator) assists parties to a conflict in finding a mutually acceptable solution to their dispute.

Role of the mediator. The mediator facilitates discussion between the parties by assisting them in communicating, identifying and clarifying issues, and exploring potential solutions. The parties decide the outcome of the mediation.

Role of the parties. Each party agrees to participate in mediation in good faith and agrees to treat others in the mediation with respect and courtesy.

Confidentiality. Communications in mediation are confidential and may not be used in subsequent judicial or administrative proceedings, except for (a) communications used to plan or commit a crime, (b) threats of bodily injury, (c) information otherwise discoverable by legal procedures, (d) in any complaint for misconduct against an attorney or mediator who participates in the mediation process; (e) in any legal action to vacate the agreement, (f) when the parties agree to waive confidentiality in writing, or (g) as otherwise provided by law or rule. Threats of personal harm may be disclosed by the mediator as reasonably necessary to prevent people from harm.

In addition, all memoranda, work products and other materials contained in the case files of a mediator or mediation program are confidential. Any communication made in or in connection with the mediation, which relates to the controversy being mediated, including screening, intake, and scheduling a mediation, whether made by the mediator, mediation program staff, to a party, or to any other person, is confidential. However, a written mediated agreement signed by the parties shall not be confidential, unless the parties otherwise agree in writing.

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 mediation agree, in writing, to waive the confidentiality,
- (ii) in a subsequent action between the mediator or mediation program and a party to the mediation for damages arising out of the mediation,
- (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 mediation,
- (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,

Discrimination Complaint Procedures
Attachment C

Settlement agreement template

NOTICE: Pursuant to 29 C.F.R. § 38.93, a conciliation agreement must:

- (a)** Be in writing;
- (b)** Address the legal and contractual obligations of the recipient;
- (c)** Address each cited violation;
- (d)** Specify the corrective or remedial action to be taken within a stated period of time to come into compliance;
- (e)** Provide for periodic reporting on the status of the corrective and remedial action;
- (f)** State that the violation(s) will not recur;
- (g)** State that nothing in the agreement will prohibit CRC from sending the agreement to the complainant, making it available to the public, or posting it on the CRC or recipient's Web site;
- (h)** State that, in any proceeding involving an alleged violation of the conciliation agreement, CRC may seek enforcement of the agreement itself and shall not be required to present proof of the underlying violations resolved by the agreement; and
- (i)** Provide for enforcement for a breach of the agreement.

- (vi) where an ethics complaint is made against the mediator by a party to the mediation to the extent necessary for the complainant to prove misconduct and the mediator 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, or
- (viii) as provided by law or rule.

Voluntary. Mediation is voluntary. Any party, or the mediator, may decide to stop the mediation at any time for any reason.

Joint and separate sessions. The mediation generally will occur with all parties present. The mediator may also meet separately with each party.

Legal advice. The mediator does not provide legal advice. Each party to the mediation has the opportunity to consult with independent legal counsel at any time and is encouraged to do so.

Agreement. All terms of settlement are non-binding until they are put into a written agreement *and* signed by all parties. 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.

Party signature

Party signature

Party's representative (if present)

Party's representative (if present)

Other person present

Other person present

Mediator

BABEL NOTICE (29 C.F.R. § 38.9(g)(3)):

This document contains vital information. If English is not your preferred language, contact Cherie Stierwalt, EO Officer 918.438.7946, TDD 800.722.0353 to obtain translation and/or interpretation services for the content of this document.

IN THE MATTER OF:

[name and address of Complainant]

v.

Complaint No.: _____

[name and address of Respondent(s)]

CONCILIATION AGREEMENT

On (insert date complaint filed), the undersigned Equal Opportunity (EO) Officer received a complaint filed by (insert name of Complainant), the Complainant, alleging that (insert name of Respondent/Recipient), the Respondent, denied the Complainant access/training/aid/benefits/services/ bid/proposal] on the basis of (insert protected class).

A number of federal civil rights laws apply to our federally-assisted programs and activities, including (1) Title VI of the Civil Rights Act of 1964, as amended; (2) Section 504 of the Rehabilitation Act of 1973, as amended; (3) Section 188 of the Workforce Innovation and Opportunity Act of 2014 (WIOA); (4) Title II of the Americans with Disabilities Act (ADA) of 1990 as amended by the Americans With Disabilities Act Amendments Act (ADAAA) of 2008; (5) Title IX of the Education Amendments of 1972, as amended; and (6) the Age Discrimination Act of 1975.

As a whole, these statutes bar discrimination on the “basis” of race, color, national origin, religion, age, sex, disability, citizenship, political affiliation or belief, and/or status as a WIOA participant in programs funded, in part or in whole, by the U.S. Department of Labor. I determined that I had jurisdiction to investigate this matter, and the issue(s) presented for investigation was as follows:

[insert the issue accepted for investigation]

Through mediation, the parties have reached a settlement of this matter. The terms of the settlement are as follows:

- 1.
- 2.
- 3.