

MEDIATION AGREEMENT

On _____, _____(Complainant) initiated/filed a discrimination complaint against the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (Agency), pursuant to 29 C.F.R. 1614 (including the Age Discrimination in Employment Act of 1967, as amended) (Case Number:). The following issue was raised with the EEO Counselor: or The Agency accepted the following claim(s) for investigation: Whether the Complainant was discriminated against on the basis of _____ when:

He/She was

The Agency and the Complainant, the parties to this case, have now reached a mediated agreement (Agreement) and hereby commit to the resolution of the subject complaint as stated herein. The Complainant has been advised that he/she has the right to consult with an attorney prior to executing this Agreement. This Agreement is entered into knowingly and voluntarily by the Agency and the Complainant.

The parties understand that this Agreement is to be regarded as a “no-fault” Agreement and, as such, this Agreement is not intended to and will not be construed as an admission or statement by either party as to the validity or invalidity of any legal position or factual contention advanced in, or the substantive merits of, the above-captioned case. This Agreement is not to be cited as evidence of discrimination or as background information in any other case or dispute involving the agency, its employees, or any other Federal entity.

The terms set forth in this Agreement constitute the complete understanding between the parties. The Agreement may not be modified except in writing and signed by both parties.

CLAIMS RESOLVED

This Agreement resolves all matters, issues, and claims including but not limited to back pay, attorney’s fees, and damages, which are or were alleged, or which might or could have been alleged, either judicially or administratively against the Agency and/or its employees, based on incidents arising out of the instant complaint(s) occurring on or before the effective date of this Agreement.

TERMS OF RESOLUTION

The Agency agrees to:

1)

The Complainant agrees:

1) That by signing this Agreement, he/she withdraws and dismisses with prejudice the above-referenced complaint(s) of discrimination.

If the Complainant believes that the Agency has not complied with the terms of this Agreement, the Complainant may, under 29 C.F.R. 1614.504, notify the Agency's, Director of the Office of Equal Opportunity and Civil Rights (OEOCR), in writing within thirty (30) days of the effective date of the alleged violation, requesting that the terms of the Agreement be specifically implemented. Alternatively, the Complainant may request that the complaint(s) be reinstated for further processing from the point processing ceased.

CONFIDENTIALITY

The parties agree to keep the terms of this Agreement confidential. For purposes of this Agreement, "confidential" means that the facts and issues of the underlying complaints and the terms of the Agreement shall not be disseminated, discussed, or commented upon to anyone other than Agency officials. This prohibition against disclosure includes, but it is not limited to, former or present employees of the Agency not responsible for approval or implementation of the Agreement, members of the mass media, or other organizations. The parties further agree that they will not permit other persons to disclose the terms of this Agreement or make a copy of this Agreement available to anyone not involved in the litigation or effectuation of this Agreement.

RELEASE

In consideration of the promises made by the Agency in this Agreement, the Complainant agrees that this Agreement completely resolves all issues and claims which he/she currently has or may have prior to the date of this Agreement and arising out of or in connection with the instant complaint(s).

AGE DISCRIMINATION IN EMPLOYMENT ACT RIGHTS

By signing this Agreement, the Complainant agrees to waive rights under the Age Discrimination in Employment Act of 1967, as amended (ADEA) with respect to the above-referenced complaint(s), but is not waiving rights or claims that may arise under the ADEA after he/she signs this Agreement. The Complainant understands that he/she is receiving benefits from this waiver of rights to which he/she would otherwise not be entitled. The Complainant may consider management’s final offer for up to twenty-one (21) days before signing an Agreement accepting the offer. Further, the Complainant may revoke this Agreement for a period of seven (7) days after signing it and the Agreement shall not become effective or enforceable until this seven (7) day period has expired.

EFFECTIVE DATE

This Agreement shall become effective the date of the last signature to the Agreement.

COMPLAINANT

FOR THE AGENCY

Complainant Date

Management Official Date

Complainant’s
Representative Date

Ramon Suris-Fernandez Date
Director
Office of Equal Opportunity
and Civil Rights