SECTION 201(a) MEDIATION CONFIDENTIALITY AGREEMENT

OCR Complaint Number:
Complainant:
Recipient:

The parties agree to participate voluntarily in the Mediation 201(a)[1] process in an effort to resolve the above-referenced complaint filed with the U.S. Department of Education Office for Civil Rights (OCR). In order for Mediation 201(a) to be helpful, the parties understand that open and honest communications are essential. Confidentiality in the Mediation 201(a) process allows the parties to candidly discuss their interests in an attempt to reach a resolution, without fear that statements made during the Mediation 201(a) process will be used later against them. The parties and the Mediator agree to be governed by § 574 of the Administrative Dispute Resolution Act, 5 U.S.C. § 574, (ADRA), throughout the Mediation 201(a) process. In general, § 574 provides, with some exceptions, that a neutral shall not voluntarily disclose or through discovery be required to disclose any dispute resolution communication or any communication provided in confidence to the neutral; and a party to a dispute resolution proceeding shall not voluntarily disclose or through discovery be required to disclose any dispute resolution communication.

In addition, the parties and the Mediator agree that Mediation 201(a) sessions will not be audio-recorded or transcribed by any of the participants. All information, including all notes, records, or documents generated by the Mediator during the course of the Mediation 201(a) will be kept in a separate file. If the mediation is not successful, OCR will close the original complaint pursuant to Section 201(a) of OCR's *Case Processing Manual*, assign a new docket number to the complaint, and determine whether to open the complaint for investigation. If OCR opens a new complaint for investigation, the information obtained during Mediation 201(a) will not be shared with OCR staff member(s) assigned to investigate the new complaint.

The parties agree not to subpoena or otherwise compel the Mediator to produce any documents provided by a party that were created and used during the Mediation 201(a) process. The Mediator will not voluntarily testify on behalf of a party in any pending or future administrative or judicial proceeding. The parties further agree that the Mediator will be held harmless for any claim or dispute arising from the Mediation 201(a) process. If a resolution is reached by the parties, the resolution agreement shall be reduced to writing and, when signed, shall be binding upon the complainant and the recipient.

By signing below, I certify that I have read and voluntarily agree to the terms of this confidentiality agreement.

_____ _____
Complainant Date

_____ _____
Recipient Date

[1] As defined by Section 201(a) of OCR's *Case Processing Manual*, February 19, 2025.