

Sample Arbitration Agreement to Resolve Whistleblower Retaliation Complaint

1. *Name of whistleblower* ("Complainant") and *institution* agree that Complainant's whistleblower retaliation complaint against *institution and/or members* will be submitted to an arbitration proceeding for final resolution of that complaint. Specifically, the parties agree to abide by all of the provisions of this Agreement. Moreover, the parties agree to abrogate all other rights under Federal, State, or local law, and other institutional policies or employment agreements pertinent to the resolution of the whistleblower retaliation complaint, other than enforcement of the arbitration award. This Agreement may not be modified in any manner absent the consent of both parties.

2. Complainant and *institution* agree that the arbitration shall be conducted by *name of arbitrator* according to the rules of *arbitration association*. The parties agree that *arbitrator* has no professional or personal relationship or conflict of interest with any of the parties.

3. *Institution* and Complainant agree to share equally the administrative costs of the arbitration proceeding subject to modification by the arbitrator as part of his/her final award. Each party shall be responsible for the costs of presenting its own case subject to modification by the arbitrator as part of his/her final award. The arbitrator shall modify the allocation of costs in favor of the whistleblower including the award of attorney's fees if the arbitrator finds that *institution and/or members* retaliated against the whistleblower.

The arbitrator shall modify the allocation of costs and dismiss the retaliation dispute in favor of *institution* if the arbitrator finds that Complainant's allegation of scientific misconduct was not made in good faith. The institution, however, shall be compensated only if it has timely made a preliminary motion to dismiss the retaliation claim on the basis that the allegation of scientific misconduct was not made in good faith, and proves its contention by a preponderance of the evidence.

4. The arbitrator's award shall be limited to Complainant's whistleblower retaliation claim. By submitting this dispute to arbitration under this Agreement, the parties agree that the retaliation claim will be fully settled under this Agreement, shall be dropped from all pending suits, and shall not be part of any future suits in any court of law other than suits to enforce the arbitration award.

5. The arbitrator shall apply a preponderance of the evidence standard in determining whether retaliation occurred [or any other standard mutually agreed to by the parties].

6. Upon completion of the parties' presentations, the arbitrator shall render an award which is final and binding upon both parties. The arbitrator shall grant any remedy or relief that the arbitrator deems just and equitable and is consistent with 42 C.F.R. Part 50.103(d)(13) and Sections IV and V of the ORI Guidelines. The arbitrator's award is not appealable before any court of law and may be enforced by the prevailing party in court or otherwise.