§ 1040.89–7
Diversity, will accept a judgment that
an agreement is not possible. However,
the recipient and the complainant need
not meet with the mediator at the
same time.

(c) If the complainant and the recipi-

tent reach an agreement, the mediator
shall prepare a written statement of
the agreement and have the complain-
ant and the recipient sign it. The medi-
ator shall send a copy of the agreement
to the Director, Office of Civil Rights
and Diversity, DOE. DOE will take no
further action on the complaint unless
the complainant or the recipient fails
to comply with the agreement.

(d) DOE will use the mediation proc-

(1) 60 days elapse from the time the
mediation agency receives the com-
plaint; or
(2) Prior to the end of the 60 day me-
diation period, an agreement is
reached; or
(3) Prior to the end of that 60 day me-
diation period, the mediator deter-
mines that an agreement cannot be
reached.

d) The mediator shall return unre-
solved complaints to the Director, Of-

§ 1040.89–8 Prohibition against intimi-
dation or retaliation.

A recipient may not engage in acts of
intimidation or retaliation against any
person who:

(a) Attempts to assert a right pro-
tected by the Act or these regulations;
or
(b) Cooperates in any mediation, in-
vestigation, hearing, or other part of
DOE’s investigation, conciliation, and
enforcement process.

§ 1040.89–9 Compliance procedure.

(a) DOE may enforce the Act and
these regulations through procedures
prescribed in subpart H of DOE regula-
tion 10 CFR part 1040—Nondiscrimina-
tion in Federally Assisted Programs or
Activities, which calls for—

(1) Termination of a recipient’s Fed-
eral financial assistance from DOE for
a program activity in which the recipi-
ent has violated the Act or these regu-
lations. The determination of the recipi-
ent’s violation may be made only
after a recipient has had an oppor-
tunity for a hearing on the record be-
fore the Federal Energy Regulatory
Commission (FERC). Therefore, cases
which are settled in mediation, or prior
to a hearing, will not involve termi-
nation of a recipient’s Federal finan-
cial assistance from DOE under this
section.