§ 617.11 Investigation.

(a) Informal investigation. (1) NSF will investigate complaints that are unresolved after mediation or are reopened because of violation of a mediation agreement.

(2) As part of the initial investigation, NSF will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts, and, if possible, will settle the complaint on terms that are agreeable to the parties. NSF may seek the assistance of any involved State agency.

(3) NSF will put any agreement in writing and have it signed by the parties and an authorized official of NSF.

(b) NSF will not affect other enforcement efforts of NSF, including compliance reviews, or individual complaints that involve the recipient.

(c) A settlement is not a finding of discrimination against the recipient.

(d) Formal investigation. If NSF cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of the Act, NSF will try to obtain voluntary compliance. If NSF cannot obtain voluntary compliance, it will begin enforcement as described in § 617.12. If the investigation does not indicate a violation of the Act, NSF will issue a written determination in favor of the recipient.

(e) NSF will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time NSF receives a sufficient complaint; or

(2) Before the end of the 60 day period, an agreement is reached; or

(3) Before the end of the 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to NSF.

§ 617.12 Compliance procedure.

(a) NSF may enforce this part by either termination of a recipient’s financial assistance from NSF for the program or activity involved where the recipient has violated the Act or this part or refusal to grant further financial assistance under the program or activity involved where the recipient has violated the Act or this part. The determination of the recipient’s violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases settled in the mediation process or before a hearing will not involve termination of a recipient’s Federal financial assistance from NSF.

(b) NSF may also enforce this part by any other means authorized by law, including but not limited to:

(1) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations by this part.

(2) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or this part.

(c) NSF will limit any termination or refusal to grant further financial assistance to the particular recipient and the particular program or activity found to be in violation of the Act.