AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

(c) HUD will return to the complainant any complaint determined to be outside the coverage of this part, and shall state the reasons why it is outside the coverage.

(Approved by the Office of Management and Budget under control number 2529–0030)

[51 FR 45266, Dec. 17, 1986, as amended at 52 FR 7408, Mar. 11, 1987]

§ 146.35 Mediation.

(a) HUD shall refer to the Federal Mediation and Conciliation Service, a mediation agency designated by the Secretary of Health and Human Services, all complaints that:

(1) Fall within the coverage of this part, unless the age distinction complained of is clearly with an exception; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informal judgment that an agreement is not possible. There should be at least one meeting by each party with the mediator during the mediation process. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to HUD. HUD will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without the prior approval of the head of the mediation agency.

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

(1) 60 days elapse from the time HUD receives the 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.

This 60-day period may be extended by the mediator, with the concurrence of HUD, for not more than an additional 30 days if the mediator determines that it is likely that an agreement will be reached during such extended period.

§ 146.37 Investigation.

(a) *Investigation and settlement following mediation.* (1) HUD shall investigate complaints that are unresolved after mediation or are reopened because of an alleged violation of a mediation agreement.

(2) In the investigation of complaints filed under this part, HUD will establish facts through such methods as discussion with the complainant and recipient and the review of documents in the possession of either party. HUD may also seek the assistance of any applicable State agency. Where possible, HUD will settle the complaint on terms that are mutually agreeable to the parties.

(3) Settlements shall be in writing and signed by the parties and by an authorized HUD official.

(4) A settlement shall not affect the initiation or continuation of any other enforcement effort of HUD, including compliance reviews or investigation of other complaints involving the recipient.

(5) A settlement reached under this paragraph (a) of this section is an agreement to resolve an alleged violation of the Act to the satisfaction of the parties involved, and does not constitute a finding of discrimination against the recipient.

(b) *Failure of settlement.* If HUD cannot resolve the complaint through settlement, it may make a formal determination that the Act or this part has been violated and begin enforcement procedures, as provided in §146.39. HUD shall inform the recipient and complainant in writing that the matter cannot be resolved through settlement.

§ 146.39 Enforcement procedures.

(a) HUD may enforce the Act this regulation by: