

§ 1156.16 Mediation.

(a) *Referral of complaints for mediation.* The Endowment will promptly refer all complaints to the agency designated by the Secretary of HHS to manage the mediation process that:

(1) Fall within the jurisdiction of the regulations in this part; 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 must be at least one meeting with the mediator before the Endowment 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 recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing. The mediator shall send a copy of the settlement to the Endowment. No further action shall be taken by the Endowment based on that complaint unless it appears that the complainant or the recipient has failed to comply with the agreement.

(d) The mediator shall protect the confidentiality of all 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 prior approval of the head of the mediation agency.

(e) Not more than 60 days after the Endowment receives the complaint, the mediator shall return a still unresolved complaint to the Endowment for initial investigation. The mediator may return a complaint at any time before the end of the 60-day period if it appears that the complaint cannot be resolved through mediation. The mediator may extend this 60-day period, provided the Endowment concurs, for not more than 30 days, if the mediator determines that resolution is likely to occur within such period.