

recipient shall take corrective action to remedy the violation.

(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]

**§ 146.27 Information requirements.**

In order to make it possible for HUD to determine whether recipients are in compliance with the Act and this part, each recipient shall:

(a) Keep records in a form and containing information that HUD determines is necessary;

(b) Make information available to HUD upon request;

(c) Permit reasonable access by HUD to the books, records, accounts and other recipient facilities and sources of information.

(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]

**Subpart D—Investigation, Settlement, and Enforcement Procedures**

**§ 146.31 Compliance reviews.**

(a) HUD may conduct pre-award reviews to determine whether programs or activities submitted for HUD assistance are consistent with the age distinctions set forth at §146.13(b).

(b) If a pre-award review indicates that the proposed programs or activities are not consistent with the age distinctions set forth at §146.13(b), the application will be returned to the applicant for additional information or clarification or for correction consistent with this part.

(c) HUD may conduct compliance reviews of recipients that will enable it to investigate and correct violations of this part. HUD may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary for HUD to determine whether a violation has occurred.

(d) If a compliance review indicates a violation, HUD will attempt to achieve voluntary compliance. If voluntary compliance cannot be achieved, HUD

may begin enforcement procedures as provided in §146.39.

**§ 146.33 Complaints.**

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with HUD alleging discrimination prohibited by the Act. A complainant shall file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause, HUD may extend this time limit. The filing date for a complaint will be the date upon which the complaint is deemed sufficient to be processed.

(b) HUD shall facilitate the filing of complaints and shall take the following measures:

(1) Accept as a sufficient complaint any written legible statement which is signed by the complainant and which identifies the parties involved, the date the complainant first had knowledge of the alleged violation, and describes generally the alleged prohibited action or practice;

(2) Freely permit a complainant to add information to the complaint to meet the requirements of a sufficient complaint;

(3) Widely disseminate information regarding the obligations of recipients under the Act and this part;

(4) Notify the complainant and the recipient of their rights under the complaint process, including the right to have a representative at all stages of the complaint process; and

(5) Notify the complainant and the recipient of their right to contact HUD for information and assistance regarding the complaint resolution process.

(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

**§ 146.37**

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 inves-

**24 CFR Subtitle B, Ch. I (4-1-04 Edition)**

tigate 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:

(1) Termination of a recipient's financial assistance from HUD under the program or activity involved, if 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. If the financial assistance consists of a Community Development Block Grant, the requirements of section 109(b) of the Housing and Community Development Act of 1974, 42 U.S.C. 5309, must also be