

Mediation Procedures for Head Start Grantees, Policy Councils, and Delegate Agencies

ACYF Administration on Children, Youth and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
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PROGRAM INSTRUCTION [[See Attachment at the bottom](#)]

TO: Head Start Grantees and Delegate Agencies

SUBJECT: Mediation Procedures For Head Start Grantees, Policy Councils, and Delegate Agencies

PURPOSE:

The purpose of this Program Instruction is to provide mediation procedures to be followed by Head Start grantees when conflicts arise, which, if not resolved, could lead to adverse action against the grantee or the delegate agency. Such conflicts could be between the grantee and its Policy Council or between the grantee and a Delegate Agency.

LEGAL AND RELATED AUTHORITIES:

The Head Start Act, as amended by Title I of the Human Service Amendments of 1994, Section 646 (a) (4) and (b) and 45 Part 1303.

BACKGROUND:

What is Mediation?

Mediation is a process in which two parties allow a trained neutral third party to assist them in resolving a dispute in a manner that is acceptable to both parties. Mediation is different from litigation. It is informal. A mediator is not a judge and does not decide the dispute for the parties. Mediators work to gain the trust of both parties and then use their knowledge and skills to help the parties focus their interests and goals in order to come to an agreement that meets their individual and mutual objectives. The benefits of mediation are:

- **Mediation allows the parties to retain control.**
Mediation allows you to control your dispute and resolve the problems yourself, rather than having someone else do it for you.
- **Mediation fosters more creative solutions.**
Since the mediation process empowers parties to craft their own solutions, parties have the opportunity to be far more creative than formal procedures would allow.
- **Mediation is timely.**
Mediation allows parties to resolve disputes faster by avoiding backlogged court systems.
- **Mediation is economical.**
Although any party is free to consult with a representative at any time, the mediation process does not require parties to have attorneys. Additionally, mediation saves money by resolving disputes in a timely manner.
- **Mediation enhances communication.**
Entering into the mediation process enhances communication between parties by allowing the parties to sit down at a table together and talk to one another. Additionally, the mediator's unique position allows him/her to gain a more complete picture of how each of the parties views the problem.
- **Mediation enhances relationships between parties.**
Increased communication and understanding between parties creates more pleasant and productive relationships.

Engaging in mediation does not mean that you want to compromise. It does mean that you are interested in talking in a confidential setting with another party to find out if a problem can be resolved.

Mediators are strictly prohibited from discussing cases with anyone outside the mediation process. This rule is designed so that no one who might be involved in a possible later adjudication will have any knowledge of what happens during mediation.

POLICY:

Grantees and delegate agencies are encouraged to utilize mediation in any conflict which might arise in the course of their operations, and should consult with their responsible ACF Regional office about how to proceed. However, in the attachment to this Program Instruction there is specific guidance to be followed in cases where the conflict could have major consequences such as loss of funding. The attachment is written in a form which corresponds to Head Start regulations in 45 C.F.R. Section 1303 to assure that timelines for mediation are appropriately aligned with the timelines specified in those regulations.

USE OF GRANT FUNDS

A mediator's fee may be charged to the program grant in an amount equal to the usual and customary fees charged in the locality with the approval of the responsible Federal official.

This Program Instruction is effective immediately. For additional information, please contact your ACF Regional Office, the American Indian Programs Branch, or the Migrant Programs Branch.

/S/

Helen H. Taylor
Associate Commissioner
Head Start Bureau

ATTACHMENT

POLICY COUNCIL

Mediation-Procedures

Head Start grantees must inform the responsible ACF Regional office as soon as possible after becoming aware that there is a conflict between the grantee agency and the Policy council, especially those which, if not resolved, could lead to termination, or denial of refunding, of the Head Start grant. This notification must be made within ten days of the grantee becoming aware of the conflict and in the case of a Policy council proposing to not approve the grantee's refunding application, such notification must be made at least 90 days prior to the grantee's refunding date. If the situation leading to the Policy Council's decision to withhold its approval occurs within 90 days of the grantee's refunding date, the grantee must notify its responsible Regional Office immediately.

The Regional Administrator, or a Regional staff member designated by the Regional Administrator, will hold one or more meetings, as appropriate, which the Grantee's Executive Director, the Grantee's Head Start Director and the Policy Council Chairperson are required to attend. The attendance of grantee board members at any meetings is encouraged. The purpose of these meetings is to attempt to resolve the issues between the grantee and the Policy Council to the mutual satisfaction of both parties and thus avoid the possibility of an adverse action against the grantee.

If the meetings are not successful in resolving the issues between the grantee and the Policy Council, the Grantee should, within 10 days of the meeting, submit the dispute to the offices of a professional mediator. The Regional Office will provide assistance to the grantee in selecting a mediator. The grantee is requested to advise the Regional Office of the time and location of the first scheduled meeting. The Grantee and the Policy Council are expected to attend any meetings requested by the mediator.

If the conflict relates to the grantee's refunding, the mediation process must be completed 15 days prior to the grantee's refunding date unless the mediator has indicated to the Regional office, in writing, that additional time for mediation will likely result in a successful resolution of the conflict, in which case the Regional Administrator may extend the current Head Start grant. The refusal of either party to engage in a mediation process shall be taken into consideration by the ACF Regional Office in determining what course of action is warranted.

DELEGATE AGENCY

Mediation Procedures

Delegate agencies and grantee agencies are cautioned that engaging in mediation under this policy DOES NOT SUSPEND any statutory and regulatory deadlines, such as deadlines for filing appeals, requests for review, and funding applications. The parties are urged to assure that there is sufficient time to pursue mediation before an approaching deadline.

A Head Start grantee must notify its responsible Regional office immediately on deciding to terminate a delegate agency or

immediately on deciding to wholly or substantially reject the application of a current delegate for funding. Grantees which have received an application for funding from an existing delegate agency, and do not notify the delegate of its decision to either accept or wholly or substantially reject the application within 30 days of receipt, must immediately inform its responsible Regional Office at the end of the 30 day period. Such delay by the grantee is deemed to be a rejection and triggers the delegate's right of appeal to the grantee under 45 C.F.R. S1303.20 (a) and (b). Upon notification, the Regional office will schedule a meeting, to occur within fourteen days of receipt of such notification, which the grantee, delegate agency and the Regional Administrator, or such person as may be designated by the Regional Administrator, shall attend to discuss the issues related to the grantee's proposal to terminate its agreement with or deny funding to the delegate agency. If such a meeting results in a resolution of the issues to both parties' satisfaction, the grantee will notify the Regional Office, in writing, of its decision not to terminate the delegate agency or deny its application for funding.

If such a meeting does not result in such resolution, the Grantee Agency should engage the services of a professional mediator. The Regional Office will assist the grantee in choosing a mediator. The grantee is requested to advise the Regional Office of the scheduled meeting between the grantee, delegate agency and the mediator. The Grantee and the Delegate Agency are expected to attend any further meetings requested by the mediator. The mediation should be concluded before the required date for a decision by the grantee in the delegate's appeal under 45 C.F.R. Section 1303.20.

If the grantee, subsequent to meeting with a representative of the Regional Office and participating in a mediation process, and after reaching a decision under the process provided for in 45 C.F.R. Section 1303.20(d), still intends to terminate its relationship with the delegate agency or deny it funding, the grantee must notify the delegate agency and the Regional Office of this decision when the decision is made. The provisions of 45 C.F.R. 1303.21 to 23 would then apply.

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