

## FNS FMCS FAQ

**Question 1:** Is participation in mediation mandatory?

**Answer 1:** Yes. USDA regulations at 7 CFR 15c.7(d), provide that the complainant and the respondent are both required to participate in the mediation process. However, participation in mediation does not require the parties to reach an agreement or settlement.

**Question 2:** Who should the mediator contact to schedule the mediation meeting?

**Answer 2:** The respondent entered in item #12 and the complainant in item #8 on the FMCS referral form.

**Question 3:** Are FMCS mediators allowed to share a copy of the complaint with the respondent?

**Answer 3:** Yes. Generally the mediator is the first point of contact with respondent. The mediator should advise the respondent of the complaint and provide the respondent a copy of the complaint.

**Question 4:** What happens if the respondent refuses to participate in mediation?

**Answer 4:** The mediator should contact the FNS civil rights contact listed in item #4 on the FMCS referral form as soon as possible. FNS will contact the respondent to facilitate scheduling the mediation meeting. Respondents do not have the option to refuse to participate in mediation.

**Question 5:** What happens if the complainant refuses to participate in mediation?

**Answer 5:** The mediator will close the FMCS case and notify the FNS civil rights contact of the action taken. FNS will send a letter advising the complainant that his or her FNS civil rights discrimination complaint is closed for failure to participate in mediation.

**Question 6:** What happens if mediation is not successful?

**Answer 6:** The mediator will close the FMCS case and notify the FNS civil rights contact of the action taken within five days (not to exceed the 60 day timeframe - 45 CFR 90.43(c)(3)(iii)). The specific circumstances of each complaint will determine if FNS civil rights will close the complaint or refer the complaint for an investigation.

**Question 7:** What happens if mediation is successful?

**Answer 7:** Within five days of the parties' resolution (not to exceed the 60 day timeframe), the mediator will notify the FNS civil rights contact that a resolution has been reached. The mediator will provide a copy of the signed agreement. (45 CFR 90.43(c)(3)(ii) and 7 CFR 15c.7(d).

**Question 8:** Who can represent the respondent during the mediation meeting?

**Answer 8:** Any individual who has decision making authority for the respondent.

**Question 9:** Is the complainant allowed to bring a representative to the mediation meeting?

**Answer 9:** Yes. The complainant has the right to have a representative at all stages of the complaint process.

**Question 10:** What happens if the mediation does not take place within the allotted 60 day timeframe?

**Answer 10:** The mediator should return the unresolved complaint to FNS for investigation.

**Question 11:** The complainant does not have a telephone number or email address where they can be reached. Should the mediator close the FMCS case because the complainant can't be contacted?

**Answer 11:** If a telephone number or email address is not available, the mediator should send the complainant a letter to schedule the mediation meeting. After all attempts to contact the complainant have failed, the mediator should close the FMCS case and notify the FNS civil rights contact of the action taken.

**Question 12:** If the complaint alleges discrimination on other bases in addition to age discrimination, should the parties resolve the entire complaint on all issues and bases?

**Answer 12:** Yes. Although the parties are not required by Age Act regulations to mediate other bases of discrimination, we encourage the parties to mediate the other bases identified in the complaint and if possible, resolve them.