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TRANSMITTAL: 90 INF-56

TO: Commissioners of
 Social Services

DIVISION: Income
 Maintenance

DATE: October 23, 1990

SUBJECT: JOBS: Clarification of Department Policy Regarding
 Conciliation and the Role of the Mediator

SUGGESTED

DISTRIBUTION: Directors of Income Maintenance
 Directors of Children Services
 Employment Coordinators
 Food Stamp Supervisors
 Staff Development Coordinators

CONTACT PERSON: Local District Technical Advisor, Bureau of
 Employment Programs, at 1-800-342-3715, ext. 3-8744

ATTACHMENTS: "Listing of New York Community Dispute Resolution
 Centers" - not available on-line

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-27		385.18	Article 5 Title 9-B Section 341		90 LCM-101

This INF will clarify Department policy regarding conciliation for JOBS related participant grievances and participant noncompliance. It will also clarify the role of the mediator in the conciliation process.

In prior communication on "Job Opportunities and Basic Skills Training (JOBS) Program", the Department presented dispute resolution and conciliation in such a way as to suggest that they are two separate processes. Also, the role of the mediator required by State legislation to mediate disputes was to have powers of decision making and judgment in the conciliation process.

Districts will note that Administrative Directive (90 ADM-27) describes conciliation and dispute resolution as one procedure. It is a process that can equally satisfy the need for participants and districts to dispute JOBS assignments or address noncompliance with program requirements. Conciliation must include:

1. a mediator - (a) whose role is strictly one of bringing district and participant together in conciliation to resolve a dispute and (b) in the case of satisfactory resolution, conveying the details of that resolution to the district and the participant;
2. provision for at least one conference among the participant, appropriate SSD staff and the mediator;
3. time limitation - the process cannot exceed thirty (30) days unless an extension is mutually agreed upon by the parties involved, but in no case may the extension exceed an additional thirty days.

Districts are directed to 90 ADM-27 for specific steps which must be followed when applying conciliation to resolve participant grievances or to address instances of noncompliance.

Revision of that section of JOBS plans where districts describe their conciliation procedure may be required as a result of the revised procedure outlined in the final ADM. Districts may also wish to reconsider their nominee to serve as mediator, since it is clear that the mediator does not render judgments, nor make decisions during conciliation.

The listing attached to this release identifies those agencies affiliated with the New York Association of Community Dispute Resolution Centers which participate in a dispute resolution program administered by the Unified Court System of the State of New York. These agencies offer dispute resolution programs that would meet the definition of an outside entity which could act as mediator in the conciliation process. Districts may wish to avail themselves of the services they provide, which in some local centers would include staff training in dispute resolution (mediation) techniques.

Oscar R. Best, Jr.
Deputy Commissioner
Division of Income Maintenance