

RESOLUTION AGREEMENT

BETWEEN

U. S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS

AND

COUNTY OF ALAMEDA
SOCIAL SERVICES AGENCY
CHILDREN AND FAMILY SERVICES

(OCR 09-99-7002)

RESOLUTION AGREEMENT

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I. Background

- A. This matter arose from the Office for Civil Rights (OCR), U. S. Department of Health and Human Services (HHS) investigation of a complaint against the County of Alameda, Social Services Agency, Children and Family Services (CFS). OCR investigated the complaint under its authority to enforce Title VI of the Civil Rights Act of 1964 and implementing regulation, 45 CFR Part 80 (Title VI), and the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of the Small Business Job Protection Act of 1996 (MEPA/Section 1808). Title VI and MEPA/Section 1808 prohibit discrimination in adoption and foster care placement decisions based on race, color, or national origin.
- B. CFS acknowledges it is a recipient of federal financial assistance from the U.S. Department of Health and Human Services (HHS) and, as such, it is subject to Title VI and MEPA/Section 1808.
- C. The actions described herein fully address the issues raised in this complaint.
- D. CFS accepts the terms stipulated in this Agreement and assures OCR it intends to act in full and complete compliance with Title VI and MEPA/Section 1808.

II. General Provisions

- A. This Agreement shall become effective on the date it is signed by officials of CFS and OCR. The Agreement will remain in effect until OCR has verified CFS has implemented all actions specified in Section III of the Agreement.
- B. CFS acknowledges its continuing obligation to comply with any and all provisions of Title VI and MEPA/Section 1808.
- C. Agreement by CFS to take the steps set forth herein is not an admission of any wrong doing on the part of CFS, nor does it affect any other issues, reviews, or complaints of discrimination involving CFS that may be pending before OCR or another Federal agency. Any other compliance matters arising subsequently to this Agreement shall be addressed and resolved separately in accordance with the procedures and standards in the regulations applicable to such matters.

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- D. CFS shall not intimidate, threaten, coerce, or retaliate against any individual who has filed a complaint, testified, assisted, or participated in any manner in the investigation of this matter.
- E. OCR may, at any time, review CFS's compliance with the provisions of this Agreement in accordance with the Title VI regulatory provisions set forth at 45 CFR 80.6(b), (c). As part of such a review, OCR may require CFS to provide written reports, and to permit OCR to inspect the premises, interview witnesses and examine and copy documents to determine if CFS is complying with the provisions of the Agreement. CFS agrees to retain the records required by OCR to assess its compliance with the Agreement and to submit any requested reports to OCR, as specified in Section IV of this Agreement.
- F. This Agreement is an enforceable contract. The promises, obligations, or other terms and conditions set forth in this Agreement constitute the exchange of valuable consideration between OCR and CFS.
- G. If at any time OCR determines CFS has failed to comply with any provision of this Agreement, OCR will promptly notify CFS in writing. The notice shall include a statement of the basis for OCR's decision and allow CFS 15 days to explain in writing the reasons for its actions. The time frames allowed for CFS's response may be less than 15 days whenever OCR determines a delay would result in irreparable injury to affected parties. If CFS does not respond to the notice or, upon review of CFS's response, OCR finds CFS has not complied with any provision of the Agreement, OCR may request the initiation of administrative or judicial enforcement proceedings to secure CFS's compliance with Title VI and MEPA/Section 1808. Evidence regarding CFS's alleged violations of Title VI and MEPA/Section 1808, in addition to evidence regarding CFS's alleged violation of the Agreement, may be introduced by OCR in any enforcement proceedings or other appropriate action that may be initiated. Violations of this Agreement may subject CFS to sanctions set forth in the applicable regulation authorizing enforcement or other appropriate action.
- H. This Agreement may be modified by mutual agreement of the parties in writing. The Agreement may be modified or invalidated in part or in whole in the event the statutes or regulations cited in Section I are amended, repealed, or rendered unenforceable by the action of any appropriate legislative, judicial, or administrative body with jurisdiction over the parties to this Agreement.

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- I. When OCR verifies CFS has completed all actions contained in this Agreement, OCR will consider all matters related to this complaint resolved and so notify CFS in writing.
- J. OCR shall provide CFS with appropriate technical assistance and guidance necessary to fulfill the terms of this Agreement.
- K. OCR shall place no restriction on the publication of the terms of this Agreement. In addition, OCR may be required to release the Agreement and all related materials to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. 552, and implementing regulation, 45 CFR Part 5.

III. Specific Provisions

CFS shall take the actions set forth below:

- A. Implement a comprehensive recruitment plan to recruit foster and adoptive parents that reflect the population of children in foster care. Ensure that the plan reflects strategies for generalized as well as targeted recruitment.
- B. Review written instructions, policies and other documents that address placement decisions for MEPA-IEP compliance and purge or amend all documents in which language prohibited by MEPA-IEP is found. Documents to be reviewed, and purged or amended as necessary shall include those currently in use and those intended for inclusion in the new policies and procedures manual.
- C. As part of the review identified in Specific Item B. above, the agency will purge or amend the documents identified in C. 1. through 6. below. It is understood by the agency and OCR that documents to be purged or amended shall not be limited to those identified below if other documents require changes to comply with MEPA-IEP:
 - 1. Remove race, ethnicity, hair color, and eye color from the applicant identifying information at Part B of the M.A.P.P. Profile.

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2. Delete the first and second sentences from item four (4), Section III: Child Desire and Motivation To Foster Or Foster-Adopt , Part B, M.A.P.P. Profile, or rewrite item 4 to provide notice of the agency's MEPA-IEP policy.
 3. Eliminate Section VII: Assessment regarding Transracial Placement from Part B of the M.A.P.P. Profile.
 4. Delete race, ethnicity, hair color, and eye color from the applicant identifying information at Profile Section I of the Homestudy Format.
 5. Eliminate the statement "ability to understand the needs of a child of another race/ethnic group" from Section III. Child Desire and Motivation to Foster or Adopt, Homestudy Format.
 6. Remove Section VII: Assessment regarding Transracial Placement from the Homestudy Format.
- D. Develop a written policy for MEPA-IEP compliance in placement decisions that incorporates but is not limited to the following elements:
1. An overview of the MEPA-IEP requirements.
 2. A statement that workers may not use "cultural considerations" as a proxy for race-based decisions.
 3. A description of the system used to document the rationale and scrutinize the validity of placement decisions where race, ethnicity, or national origin is considered as a necessary factor when determining whether to place a specific child in a particular home.
 4. A description of the procedure to address MEPA-IEP grievances.
- E. Include the policy for MEPA-IEP compliance identified in Specific Item D. above in the agency's policies and procedures manual.
- F. Implement a system to ensure that managers and staff involved in placement decisions are reminded of the policy for MEPA-IEP compliance identified in Specific Item D. above on at least a yearly basis.

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- G. Amend grievance procedures for discrimination complaints from applicants or care givers to incorporate due process standards and to identify appropriate legal authorities.
- H. Instruct staff in writing not to enter race, ethnicity, or national origin as fields when conducting searches for foster or adoptive homes as a precaution against race, ethnic, or national origin matching on an indiscriminate basis.
- I. Provide OCR with draft copies of written instructions, policies, procedures, and forms that address placement decisions and that are intended for inclusion in the new policies and procedures manual scheduled to be issued in 2001. OCR shall review the documents and provide the agency with any needed technical assistance to ensure that they comply with MEPA-IEP prior to implementation.
- J. Provide ongoing and regular notice to social workers who complete home studies that they must not attempt to analyze or discuss an applicant's general ability to meet the racial or cultural needs of children.
- K. Provide ongoing and regular notice to applicants and care givers that the agency follows MEPA-IEP in its fostered care and adoption placement decisions.
- L. Provide ongoing and regular notice in general information publications to applicants and care givers that the agency follows a practice of nondiscrimination based on race, color, national origin, disability, or age. The notice shall identify the coordinator(s) for discrimination complaints, include notice of the availability of a grievance procedure to address discrimination issues, and identify the telephone number(s) by which persons with or without hearing-impairments may reach the coordinator(s).
- M. Establish a procedure to provide ongoing and regular training to social workers, supervisors, and managers on MEPA-IEP requirements. The policy shall identify MEPA-IEP requirements and practices to be covered during training regardless who conducts the training.
- N. Establish a procedure to provide ongoing and regular training to applicants and care givers in their legal rights under MEPA/IAP.

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- O. Notify home finding agencies under contract with the agency that they must comply with the requirements of MEPA-IEP.
- P. Track, on an ongoing basis by race/ethnicity:
 - 1. the total number of children awaiting adoption placement
 - 2. the number of minority children awaiting adoption placement
 - 3. the total number of children awaiting adoption placement for 1-12 months
 - 4. the number of minority children awaiting adoption placement for 1-12 months
 - 5. the total number of children awaiting adoption placement more than 12 months
 - 6. the number of minority children awaiting adoption placement more than 12 months
 - 7. the average time to adoption placement for all children
 - 8. the average time to adoption placement for minority children
- Q. Track the average time to adoption placement by race/ethnicity of the child and adoptive family.

IV. Reporting Requirements

CFS shall submit sufficient documentation to OCR that it has completed all actions set forth in Section III of this Agreement. Documentation shall include a summary of the steps taken to implement this Agreement and the date each step was taken. Specific time frames are as follows:

- A. Within three months of signing this Agreement, CFS shall submit to OCR documentation that it has completed all actions specified at Section III. A. - O.

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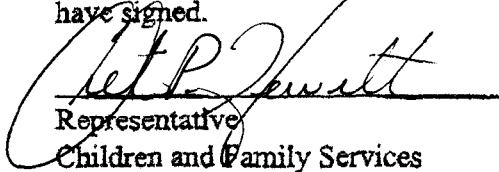
B. Within six months of signing this Agreement, CFS shall submit to OCR the first of four semiannual statistical reports covering the data specified at Section III. L.

The time frames for completion may be extended by OCR for good cause. To the extent OCR verifies CFS has completed all actions specified in Section III, OCR shall notify CFS in writing the issues in this review are resolved, and no further action will be taken against CFS in connection with this review.

CFS shall submit sufficient documentation to OCR that it has completed all actions set forth in Section III of this agreement. CFS's documentation shall include a summary of the steps it has taken to implement this plan and the date each step was taken.

IV. Signatures

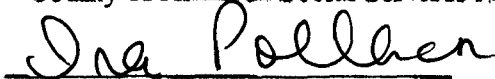
This agreement is entered into by the following parties and is effective when both parties have signed.



Representative

Children and Family Services
County of Alameda Social Services Agency

9/17/01
Date



Ira C. Pollack

Regional Manager
Office for Civil Rights, Region IX

9/26/01
Date