

## **CORRECTIVE ACTION AND RESOLUTION PLAN**

of

THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

and

### **Resolution Agreement**

of

Hamilton County Job and Family Services

[OCR Docket Number: 05997026]

#### **I. BACKGROUND**

This Corrective Action and Resolution Plan of the Ohio Department of Job and Family Services (ODJFS) and Resolution Agreement of the Hamilton County Job and Family Services (HCJFS) is designed to address and resolve the violations of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq* and its implementing regulations, 45 CFR Part 80 (collectively Title VI) and the violations of Section 1808(c) of the Small Business Job Protection Act of 1996, 42 U.S.C. § 1996b (Section 1808(c)) which the United States Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) found in its October 20, 2003 Letter of Findings (LOF), referenced as OCR docket number 05997026, had been committed by ODJFS and by HCJFS. As used herein, "Plan" means the obligations of ODJFS contained in this document and "Agreement" means the obligations of HCJFS contained in this document. The Plan is designed to address and resolve the violations of Section 1808(a) of the Small Business Job Protection Act of 1996, 42 U.S.C. § 671(a)(18) (Section 1808(a)) which HHS's Administration for Children and Families (ACF) found in its written notification letter of November 20, 2003 (Notification Letter) had been committed by ODJFS. The Plan and Agreement are designed to address and resolve the violations of Section 1808(c) and Title VI which OCR found in its LOF.

ODJFS acknowledges that, as a recipient of Federal financial assistance from ACF for its adoption and foster care program, pursuant to Title IV-E of the Social Security Act, 42 U.S.C. § 670, *et seq.* (Title IV-E), it is subject to Title VI and that it is also subject both to the Multiethnic Placement Act of 1994 and to Section 1808 of the Small Business Job Protection Act of 1996 (Removal of Barriers to Inter-ethnic Adoption), 42 U.S.C. §§ 622(b)(9), 671(a)(18), 674(d) and 1996b (collectively MEPA). These authorities prohibit the existence and implementation of adoption

Corrective Action and Resolution Plan  
July 15, 2004

and foster care policies and practices that discriminate on the basis of race, color or national origin (RCNO) in the placement of children. ODJFS further acknowledges that, pursuant to 42 U.S.C. §§ 671(a)(3) and (a)(7) and Ohio Revised Code Section 5101.141, it is the single state agency with the authority to supervise the administration of the Title IV-E state plan by the eighty-eight county public children services agencies (PCSAs), including HCJFS, that receive Title IV-E funds from ACF, through ODJFS, for the purpose of implementing ODJFS's foster care and adoption program in Ohio.

HCJFS acknowledges that it is a sub-recipient of Title IV-E funds from ACF, through ODJFS, for the purpose of implementing ODJFS's foster care and adoption program in Hamilton County, Ohio. As such, HCJFS acknowledges that it is subject to Title VI and to Section 1808(c).

Pursuant to 45 CFR. § 80.7, OCR is authorized to conduct a review of foster care and adoption policies and practices of those entities that receive Federal financial assistance to determine whether they discriminate on the basis of RCNO. Pursuant to 45 CFR § 1355.38(a)(1), ACF is authorized to request that OCR conduct an investigation of a possible Section 1808(a) violation. In April 1999, ACF provided OCR with information regarding allegations contained in newspaper reports and in a complaint filed in *John Doe v. Hamilton County Department of Human Services*, Civil Action No. C-1-99-281, a lawsuit filed in the United States District Court for the Southern District of Ohio (*Doe* Litigation) alleging that HCJFS, which was then known as the Hamilton County Department of Human Services, was systematically violating Title VI and Section 1808. As set out in OCR's LOF, OCR concluded that HCJFS had violated Title VI, MEPA and/or Section 1808 by virtue of its policies and practices and that ODJFS had violated Title VI, MEPA and/or Section 1808 when it promulgated certain administrative rules governing transracial adoption and foster care. Based upon those findings, ACF issued its Notification Letter. ACF's Notification Letter adopted and incorporated the findings of OCR.

In its LOF, OCR requested the submission of a voluntary compliance agreement within thirty days of ODJFS's and HCJFS's respective receipt of OCR's findings. 45 C.F.R. 1355.38(c) required ODJFS to submit a corrective action plan to ACF providing remedies for the Section 1808(a) violations within 30 days of ODJFS's receipt of the Notification Letter. After ODJFS requested extensions of time to submit its corrective action and voluntary compliance plans, both OCR and ACF agreed to extend the response date for ODJFS to January 5, 2004. On January 5, 2004, ODJFS submitted its original proposed "Corrective Action Agreement" to OCR and ACF. HCJFS tendered its original proposed Corrective Action Plans to OCR on November 20, 2003. On January 30, 2004, ACF and OCR rejected ODJFS's original Plan. On February 13, OCR rejected HCJFS's original Corrective Action Plan.

In the interest of assuring equal access to adoption and foster care services in the State of Ohio, ODJFS has submitted this revised Plan to ACF and OCR for their acceptance and approval. In the interest of assuring equal access to adoption and foster care services in Hamilton County, Ohio, HCJFS has executed this Agreement and submitted it to OCR for approval.

## II. GENERAL PROVISIONS

A. ODJFS's Corrective Action and Resolution Plan and HCJFS's Resolution Agreement shall become effective on the Effective Date, as that term is defined in Section II.K below. The Plan shall remain in effect until ODJFS no longer receives Title IV-E funds from HHS, except that those portions of this Plan which contain specific time limits shall expire when those time limits have expired, provided that OCR and ACF find that the tasks to be performed by ODJFS within such time limits have, in fact, been performed. The Agreement, with respect to HCJFS's Title VI obligations, shall remain in effect so long as HCJFS receives Federal financial assistance from HHS, except that those provisions of the Agreement that require HCJFS to perform actions within specific time limits shall expire when those time limits have expired, provided that OCR finds that the tasks to be performed by HCJFS within such time limits have, in fact, been performed. HCJFS's failure to perform any of the obligations required under the Agreement to be performed by it prior to the Implementation Date shall be deemed a failure of implementation of the Plan, pursuant to 45 CFR 1355.38(c)(1), and may be cause for imposition of an additional financial penalty by ACF upon ODJFS.

B. ODJFS expressly denies that ODJFS's adoption and foster care policies or practices discriminate on the basis of RCNO, or constitute any other wrongdoing. HCJFS expressly denies that HCJFS's adoption and foster care policies or practices discriminate on the basis of RCNO, or constitute any other wrongdoing.

C. ODJFS's and HCJFS's full and complete implementation of and compliance with the Plan and Agreement, respectively, shall resolve the compliance issues described in the LOF as well as any compliance issues arising out of OCR's review of the compliance of Ohio statutes and ODJFS' administrative rules with MEPA and Title VI which OCR commenced in 1997 and which was still open when the compliance review described in the LOF was commenced in April 1999. The Plan and Agreement do not apply to any other Federal agency regarding compliance with applicable statutes or regulations enforced by those agencies. Nor do the Plan and Agreement apply to any program that ODJFS administers over which OCR and/or ACF have jurisdiction beside ODJFS's Title IV-E adoption and foster care program. The Plan and Agreement also do not preclude future OCR complaint investigations or compliance reviews of ODJFS and/or of HCJFS regarding other matters arising prior to or after the Effective Date, including additional allegations of violations of Title VI and MEPA. On the Effective Date, OCR provided ODJFS with a letter containing a complete list of the complaints against ODJFS and/or any Ohio public children's services agency containing allegations of Title VI and/or MEPA violations that OCR has received and that are open and unresolved as of the Effective Date. A true and correct copy of the OCR letter to ODJFS is attached as Exhibit A and its contents are incorporated by reference herein. ODJFS acknowledges that, notwithstanding its execution of this Plan and the Plan's acceptance by OCR and ACF, that OCR shall continue to process the existing Title VI and MEPA complaints listed on its Effective Date letter and that to the extent, if any, that OCR finds that ODJFS and/or any Ohio county public children's services agency engaged in discriminatory conduct that OCR and ACF, in the case of any

Corrective Action and Resolution Plan  
July 15, 2004

MEPA violations, shall take all steps authorized by Title VI and MEPA to address and bring about resolution of the violations.

D. ODJFS shall not intimidate, threaten, coerce, or discriminate against any person who has filed a complaint, testified, assisted, or participated in any manner in the investigation of the matters addressed in the LOF, Notification Letter and/or the Plan. HCJFS shall not intimidate, threaten, coerce, or discriminate against any person who has filed a complaint, testified, assisted, or participated in any manner in the investigation of the matters addressed in the LOF, Notification Letter, the Plan and/or the Agreement.

E. ACF and OCR may review ODJFS's compliance with the Plan at any time and OCR may review HCJFS's compliance with the Agreement at any time. As part of such review, ACF and OCR may require ODJFS and/or HCJFS to provide written submissions as stipulated herein and to permit OCR and ACF to inspect premises, interview witnesses, and examine and copy documents to determine ODJFS's and/or HCJFS's respective compliance with the Plan and the Agreement. ODJFS and HCJFS agree to retain the records required by ACF or OCR to assess their respective compliance with the Plan and Agreement for as long as the monitoring and reporting provisions of the Plan and Agreement are in operation. ODJFS and HCJFS agree to submit the requested information to OCR and ACF, as specified below. OCR and ACF may, in their discretion, comment to ODJFS and/or HCJFS on any documents or other information submitted as specified in Sections III or IV at any time after the Effective Date.

F. If at any time ACF or OCR determines that ODJFS and/or HCJFS has failed to fulfill any obligation or otherwise comply with any provision of the Plan and/or the Agreement, respectively, OCR and/or ACF will notify ODJFS and/or HCJFS in writing. The notice shall include a statement of the basis of the decision, and will allow ODJFS and/or HCJFS thirty (30) days to explain in writing the reasons for its (their) actions. The time frame allowed for the response may be less than thirty (30) days whenever OCR or ACF determines that a delay would result in irreparable harm to any person. If OCR or ACF are not persuaded by the explanation, OCR or ACF shall inform ODJFS and/or HCJFS that it is or they are in violation of the Plan and/or the Agreement, respectively, and shall provide it or them thirty (30) days in which to cure the violation(s), or a lesser cure period if OCR or ACF state in writing that the failure to cure in a lesser time would result in irreparable harm to any person. Violations of the Plan and/or Agreement may subject ODJFS and/or HCJFS to sanctions set forth in Title VI or MEPA or their implementing regulations authorizing enforcement or other appropriate action.

G. If OCR determines that ODJFS and/or HCJFS has failed to cure any violation of the Plan and/or the Agreement as provided for in Section II.F above within the thirty (30) day cure period or such lesser time as OCR may declare in its written statement informing ODJFS and/or HCJFS of the breach of the Plan and/or Agreement, HHS may, without further notice to ODJFS and/or HCJFS, file an action in the United States District Court in the Southern District of Ohio, Eastern Division, against ODJFS and/or HCJFS for breach of contract and any other appropriate causes of action, and

Corrective Action and Resolution Plan  
July 15, 2004

may seek specific performance of the subject provision of the Plan and/or the Agreement, as well as any other appropriate form of relief. In connection with such an action, ODJFS and HCJFS stipulate to subject matter and *in personam* jurisdiction and to venue. ODJFS and HCJFS hereby waive the right to file, and both agree not to file or otherwise assert, any motion to dismiss (except for failure to state a claim upon which relief can be granted), to stay or otherwise defer such an action. ODJFS and HCJFS also agree to a trial of such an action within 120 days after service of summons and the complaint or the court's earliest availability, whichever is later.

H. When ACF verifies that ODJFS has completed all actions required of it by the Plan, ACF will consider all allegations of deficiencies and violations arising out of the investigation by OCR resolved and so notify ODJFS in writing. Similarly, when OCR verifies that ODJFS has completed all of the actions required of it by the Plan, OCR shall consider all allegations of deficiencies and violations by ODJFS arising out of OCR's investigation as set forth in the LOF to be resolved and so inform ODJFS in writing. When OCR verifies that HCJFS has completed all actions required of it by the Agreement, OCR will consider all allegations of deficiencies and violations by HCJFS arising out of OCR's investigation resolved and so notify HCJFS in writing.

ACF shall determine whether ODJFS has completed the Plan by the Implementation Date for purposes of complying with 45 C.F.R. § 1355.38(c)(1). ACF shall notify ODJFS of ACF's determination. The determination shall not alter ODJFS's continuing obligations to comply with MEPA and Title VI as well as to comply with the terms of the Plan. Nor shall it affect OCR's and ACF's respective authority to enforce those obligations if it determines that ODJFS has engaged in post-Implementation Date actions or omissions which are not in compliance with MEPA, Title VI or the Plan.

OCR shall determine whether HCJFS has completed its obligations under the Agreement as of the Implementation Date. A determination by OCR that HCJFS has completed its obligations under the Agreement as of the Implementation Date shall not alter HCJFS's continuing obligations to comply with Title VI and Section 1808(c) as well as to comply with the terms of the Agreement. Nor shall it affect OCR's authority to enforce those obligations if it determines that HCJFS has engaged in post-Implementation Date actions or omissions which are not in compliance with Title VI, Section 1808(c) or the Agreement.

I. ODJFS acknowledges that, pursuant to Title IV-E, it is required to have a single state Title IV-E plan and that such plan must be in effect in all political subdivisions of Ohio, including Hamilton County. ODJFS also acknowledges that, pursuant to Title IV-E, it is required to monitor and conduct periodic evaluations of activities carried out by its political subdivisions pursuant to its Title IV-E plan. Consequently, ODJFS acknowledges that, pursuant to Title IV-E, it is responsible for ensuring that all county public children services agencies, including HCJFS, fully comply with all aspects of Title IV-E, as well as with any state administrative rule or policy adopted by ODJFS prior to and still in effect and pursuant to the Plan, when such rule or policy pertains to the adoption or foster care placement activities of public children's services agencies in Ohio.

Corrective Action and Resolution Plan  
July 15, 2004

J. ACF and OCR place no restriction on the release or publication of the terms of the Plan. OCR places no restriction on the release or publication of the terms of the Agreement. In addition, OCR and ACF may be required to release the Plan and OCR may be required to release the Agreement and all materials related to either to any person upon request consistent with the requirements of the Freedom of Information Act, 5 U.S.C. 552, and its implementing regulation at 45 C.F.R. Part 5. ODJFS and/or HCJFS may be required to release the Plan and/or the Agreement and all related materials to any person upon request consistent with the requirements of Ohio's public records law. O.R.C. § 149.43.

K. The following terms shall bear the definitions set forth below throughout the Plan and the Agreement:

"Effective Date," shall be the later of the date on which the Plan, having been executed by ODJFS, shall have subsequently been approved in writing by ACF and OCR.

"Implementation Date," shall be the date six months after the Effective Date.

"PCSA," shall refer to any public children's services agency in the State of Ohio.

"PCPA," shall refer to any private child's placing agency which contracts with a PCSA to provide adoption or foster care placement services. The term "PCPA" shall not refer, for purposes of the Plan or the Agreement, to any private child's placing agency which does not contract with a PCSA to provide adoption or foster care placement services.

"PNA" shall refer to any private non-custodial agency which contracts with a PCSA to provide adoption or foster care placement services. The term "PNA" shall not refer, for purposes of the Plan or the Agreement, to any private non-custodial agency which does not contract with a PCSA to provide adoption or foster care placement services.

"Rule File" shall mean the initiation by ODJFS of the administrative rule promulgation process, in accordance with the requirements of Section 5101.09 of the Ohio Revised Code, by filing a proposed rule with Ohio's Joint Legislative Committee on Agency Rule Review ("JCARR") with the intent of adopting a final rule pursuant to the procedures and requirements contained in Chapter 119 or Section 111.15 of the Ohio Revised Code.

L. Both OCR and ACF have jurisdiction over ODJFS for purposes of enforcing the Plan. OCR's jurisdiction arises from Title VI and from Section 1808(c). ACF's jurisdiction arises from Section 1808(a) and (b). OCR has jurisdiction over HCJFS for purposes of enforcing the Agreement. OCR's jurisdiction over HCJFS arises from Title VI and Section 1808(c).

Corrective Action and Resolution Plan  
July 15, 2004

M. All new or amended administrative rules which ODJFS is required to rule file with JCAAR under any provision of Section III of the Plan must take effect no later than the Implementation Date or this Plan shall not be deemed to have been "completed" for purposes of 45 CFR § 1355.38(c)(1).

N. All provisions in this Plan and Agreement are severable. Should any provisions of the Plan or Agreement be held invalid by a court of competent jurisdiction, all other provisions shall be deemed to remain in force.

O. This Plan may be amended upon written consent of ACF, OCR and ODJFS. The Agreement may be amended upon written consent of OCR and HCJFS.

### **III. THE PLAN**

#### **A. State Administrative Rules and Policies**

1. To alleviate concerns expressed by ACF regarding the language of and implementation of current Ohio Administrative Code (OAC) Rules 5101:2-48-13 and 5101:2-42-18.1, ODJFS shall rule file amended versions of those rules which explicitly provide that RCNO can only be used in the adoption or foster care placement process if an individualized assessment of a child's particular needs by a licensed professional, who is not an employee of a PCSA, PCPA, or a PNA, indicates that RCNO should be used in the placement process. A "licensed professional" can be a child psychologist, child psychiatrist, clinical social worker or similar professional. A "licensed professional" must also sign an acknowledgment of having received a written explanation of, and of having had the opportunity to obtain technical assistance, regarding MEPA and Title VI as it applies to foster care and adoptive placements. A draft of the written explanation of MEPA and Title VI to be provided to the "licensed professionals" and a draft of the form that shall be signed by the "licensed professional" and subsequently submitted to ODJFS shall be submitted to OCR and ACF for their review no later than 90 days following the Effective Date. Amended OAC Rule 5101:2-48-13 shall be substantially in the form of Exhibit B hereto. Amended OAC Rule 5101:2-42-18.1 shall be substantially in the form of Exhibit C hereto. The Individualized Child Assessment Form shall be substantially in the form of Exhibit D1 hereto.

2. For five years following the Implementation Date, any amendment by ODJFS to any OAC Rule which pertains to the adoption or foster care placement process shall be submitted to OCR and ACF for review and comment prior to their being rule filed. To the extent, if any, that either OCR or ACF wish to comment about the rule within the two-week Ohio "clearance" period prior to the proposed rule being rule filed, they may do so. Nothing in this Plan shall be construed to bar OCR and/or ACF from commenting about any proposed or actual OAC Rule at any time prior to or after its adoption as to the rule's compliance with Title VI and/or MEPA.

3. ODJFS shall adopt an administrative rule requiring all PCSAs, PCPAs and PNAs to insert into their adoption and foster care placement policies a MEPA section using the same wording as

Corrective Action and Resolution Plan  
July 15, 2004

set out in an ODJFS form attached as Exhibit D2. The rule will also prohibit the policies from containing any additional statements regarding MEPA or transracial placements. The rule will require prior approval by ODJFS of any additional language proposed pursuant to any federal court order. This rule shall be substantially in the form as set out in Exhibits B and C hereto. In addition, no later than ninety (90) days following the rule taking effect, said MEPA section shall be included by each PCSA, PCPA, and PNA in the "current written adoption policy" that each such agency is required to maintain and to make available "to individuals interested in adoption services," pursuant to OAC Rule 5101:2-48-05. ODJFS shall provide any technical assistance required by a PCSA, PCPA, or PNA to comply with the rule.

4. No later than ninety (90) days after the Effective Date, ODJFS shall have reviewed all of its adoption and foster care administrative rules, regulations, policies, forms and guidelines to determine whether they conform with both MEPA and Title VI. ODJFS shall submit to OCR and ACF a statement indicating ODJFS' conclusion as to the compliance of each such rule, regulation, policy, form and guideline. If ODJFS has determined that any of its rules, regulations, policies, forms or guidelines are not fully in compliance with MEPA and/or Title VI, ODJFS shall also submit to OCR and ACF proposed amendatory language designed to bring those items into compliance. OCR and ACF shall review the proposed amendatory language and advise ODJFS as to whether it is acceptable within thirty (30) days of receipt. If OCR and ACF find it to be acceptable, the amended provision will go into effect no later than 60 days after both OCR and ACF have indicated their approval, except that required rule changes will be rule filed no later than forty-five (45) days after OCR and ACF provide their approval and will be effective upon the completion of the rule adoption process. If either OCR or ACF find the proposed amendatory language not to be in compliance with MEPA and/or Title VI, ODJFS shall submit new language within fifteen days of receiving such notification from OCR and/or ACF and the approval process will thereupon recommence.

OCR and ACF shall also have the right at any time to review the administrative rules, regulations, policies, forms and guidelines which ODJFS determines are in compliance with MEPA and Title VI. If OCR and/or ACF determine that any such item is not in compliance with MEPA or Title VI, OCR and ACF shall provide written notice of that conclusion to ODJFS and provide ODJFS with thirty (30) days in which to propose amendatory language that is in compliance with MEPA and Title VI, pursuant to the cure provision of Section II.G of this Plan, before commencing any other enforcement activity pursuant to 45 CFR Parts 80 or 1355 or Section II.G of this Plan.

**B. Adequate and On-Going State Oversight of PCSA, PCPAs and PNAs**

ODJFS hereby acknowledges that, pursuant to 42 U.S.C. §§ 671(a)(3) and (a)(7), it is required to oversee the activities of its political subdivisions, the 88 PCSAs in Ohio, including HCJFS, to which it "downstreams" the day-to-day administration of its adoption and foster care program. ODJFS will prepare a detailed written plan for its oversight of all PCSAs in their compliance with MEPA. The oversight plan will set forth in detail the means by which ODJFS shall oversee the compliance with MEPA of PCPAs and PNAs. ODJFS' oversight plan will contain specific times for



Corrective Action and Resolution Plan  
July 15, 2004

its oversight activities, such as periodic reviews of PCSAs, PCPAs, and PNAs. All such reviews shall include an examination of a statistically significant number of randomly-chosen individual children's and family cases files, reviews of adoption subsidies given to families who adopt children transracially compared to subsidies given to families who adopt children of their same race, as well as an examination of the minutes of placement meetings, agendas for placement meetings, match charts, homestudies, and related documents. In addition, the oversight plan will provide for unannounced visits to PCSAs, PCPAs and PNAs to attend placement meetings, interview staff, review files, etc. The oversight plan will also provide the means by which ODJFS shall ensure that all PCSAs, PCPAs, and PNAs, including HCJFS, comply with MEPA and all state statutes, regulations, administrative rules and policies which implement MEPA. ODJFS shall submit its proposed Oversight Plan to ACF and OCR by no later than July 30, 2004. ACF and OCR shall promptly review the proposed Oversight Plan and provide comment on it to ODJFS. ODJFS will then submit a final version of the Oversight Plan that ACF and OCR determine to be acceptable by no later than August 16, 2004, unless ACF and OCR, in their discretion, agree to extend the time for ODJFS to submit an acceptable version of the Oversight Plan. Once the Oversight Plan has been approved by ACF and OCR, it will be attached as Exhibit E hereto and its terms will be incorporated by reference herein.

**C. Amendment of Placement and Homestudy Rules**

1. ODJFS shall file an amended administrative rule, which shall be substantially in the form of Exhibit F hereto, which contains the following requirements for all PCSAs, PCPAs and PNAs.

a. Within 30 days of the entry of a permanent custody order in favor of the PCSA, PCPA, or PNA, the agency will schedule a Transfer Conference/Pre-Adoption Staffing to gather and exchange information regarding the child's social, developmental and medical history, previous placements, current strengths and limitations and any special needs, including previous or current relationships with siblings or other birth relatives, that need to be considered in determining the child's adoptive placement. The planning for transfer of the case to the Adoption Unit (or just transition under a new plan if the same worker will maintain the case), planning for "Good-bye visits", assessing the child's understanding and readiness for adoption, status of the child's Life Book and other preparatory needs for adoption will also be discussed. The following individuals must be requested to attend the Transfer Conference/Pre-Adoption Staffing in addition to the ongoing caseworker:

- the child's ongoing caseworker's supervisor;
- the adoption worker who is assigned to the child's case, if applicable;
- the adoption worker's supervisor;
- any staff who has the specific assignment of recruiting families for children who are awaiting adoption;

Corrective Action and Resolution Plan  
July 15, 2004

- any caseworker who knows of a kinship, foster or approved adoptive family who has indicated that they would be accepting of the child, or a child that possesses the general characteristics of the child as indicated on the JFS 01673, "Assessment for Child Placement (Homestudy)," or JFS 01691, "Application for Child Placement;"
- the Guardian ad Litem;
- key professionals working specifically with the child who have knowledge about the child's history and/or current needs that will be helpful to determine the child's placement needs;
- the child's current caregiver; and
- the child and birth family, if deemed appropriate and in the best interest of the child.

The amended rule shall provide that all PCSAs, PCPAs, and PNAs shall utilize ODJFS Form 01689, "Documentation of Decision-Making Process," in the placement process. ODJFS Form 01689 shall be substantially in the form of Exhibit G, attached hereto. Part 1 of ODJFS Form 01689 will be completed during the Transfer Conference/Pre-Adoption Staffing. ODJFS Form 01689, Part 1, will contain the child's placement history, the child's strengths and limitations, and the child's placement needs. ODJFS Form 01689 will list: (a) the outcomes of any discussions conducted by the PCSA, PCPA or PNA with the child's foster parent(s) regarding their interest in adopting the child; (b) the outcome of any discussions conducted by the PCSA, PCPA, or PNA with any relative of the child or any other person who has a significant existing relationship with the child regarding their interest in adopting the child; (c) all families who were identified as prospective parents by the participants present during the Pre-Adoption Staffing, as well as those families who were discussed but were not deemed appropriate.

- b. ODJFS Form 01689, Part 1, shall be forwarded to the Adoption Supervisor within ten days of the Transfer/Pre-Adoption Staffing ( 40 days after permanent custody). The Adoption Supervisor shall share Part 1 of the ODJFS Form 01689 with all workers who have families who are approved for adoption and will collect names from the workers of all families whom the workers indicate might have an interest in adopting the child(ren) within 15 days.
- c. Within 30 days from the Transfer Conference (or 60 days from permanent custody) the child's record should be transferred to the Adoption Unit.
- d. Within 90 days after the entry of the Permanent Custody Order (unless the Order is under appeal or otherwise not final and non-appealable, in which event the actions called for by this subsection must be completed within 45 days of the order being affirmed and non-appealable) a Matching Conference will be conducted. The following individuals must be invited to attend the Matching Conference:
  - the child's previous (ongoing) caseworker;
  - the child's previous (ongoing) caseworker's supervisor;

Corrective Action and Resolution Plan  
July 15, 2004

- the child's adoption worker;
- the adoption worker's supervisor;
- any staff who has the specific assignment of recruiting families for children who are awaiting adoption;
- any caseworker who has a family approved who has indicated that they would be accepting of the child's general characteristics or who may be appropriate to adopt the child;
- the Guardian ad Litem;
- any other professional who may have knowledge about the child's history and/or current needs that will be helpful to determine the child's placement needs.

e. All families whose workers have identified them as potential matches shall be considered at the Matching Conference. The discussion regarding the child's special needs and potential families shall be documented on the ODJFS Form 01689, "Documentation of the Placement Decision Process."

f. A Matching Conference will be held regarding the child at least once every 90 days following the initial Matching Conference until the child is placed for adoption. Thirty days prior to each Matching Conference for the child, Part 1 of the ODJFS Form 01689 will be updated and distributed to all adoption workers who have approved families on their caseload. The workers will identify families who are available for the child and submit them to the supervisor.

2. ODJFS shall rule file amended homestudy rules for both foster care and adoption homestudies which prohibit the consideration of RCNO in the homestudy approval process. In addition, the amended rules shall require that any time a PCSA, PCPA, or PNA fails to commence a homestudy within thirty (30) days after the family completes the steps necessary to trigger the commencement of a homestudy, such as filling out the application to adopt and completing pre-service training, or fails to complete a homestudy within 180 days of its commencement, the agency shall prepare written documentation explaining all of the circumstances which caused it to fail to meet the thirty day deadline contained in the amended rule or the 180 day deadline contained in amended OAC Rule 5101:2-48-12 and amended OAC Rule 5101:2-5-21. The amended rules described in this subsection shall be substantially in the form of Exhibits H and I hereto.

3. ODJFS shall require all PCSAs, PCPAs and PNAs to use the JFS 01689, "Documentation of Placement Decision" This match form uses the same terms for children's criteria that are or are not acceptable to a potential foster or adoptive family as are used in the ODJFS homestudy form. The amended form ODJFS 01689 requiring this shall be substantially in the form of Exhibit G hereto. The agencies will be instructed to use the revised version of the form through the transmittal letter releasing all of the revised rules and forms.

Corrective Action and Resolution Plan  
July 15, 2004

4. ODJFS shall rule file administrative rules establishing the criteria under which a PCSA may solicit and consider homestudies for potential adoptive and foster families whose homestudies were approved either by a PCSA, other than the one with permanent custody over the child seeking to be placed, or by a PCPA or PNA. Such homestudies and related documents such as match charts shall be integrated into the PCSA's records along with the files of families whose homestudies were approved by the PCSA itself. The administrative rules shall be substantially in the form of Exhibits J and K hereto.

**D. Providing Access by Metro Counties to All PCSA Homestudies**

By the Implementation Date, ODJFS shall establish a procedure whereby all PCSAs, including those for the eight "Metro Counties" (Butler, Cuyahoga, Franklin, Hamilton, Lucas, Montgomery, Stark and Summit), will be provided access to homestudies approved by any other PCSA or PCPA or PNA which performed the homestudy, as well as related data and documents such as family match charts. The provision of access to homestudies of all of the PCSAs shall be part of ODJFS' plan to provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in Ohio for whom foster and adoptive families are needed, as ODJFS is required to do by 42 U.S.C. § 622(b)(9). ODJFS's Recruitment Plan, including, but not limited to, a detailed description of the method by which it will provide access to homestudies to all of the PCSAs, shall be submitted to ACF and OCR by no later than July 30, 2004. ACF and OCR shall promptly review the proposed Recruitment Plan and provide comment on it to ODJFS. ODJFS will then submit a final version of the Recruitment Plan that ACF and OCR determine to be acceptable by no later than August 16, 2004, unless ACF and OCR, in their discretion, agree to extend the time for ODJFS to submit an acceptable version of the Recruitment Plan. Once the Recruitment Plan has been approved by ACF and OCR, it will be attached as Exhibit L hereto and its terms will be incorporated by reference herein.

**E. Adequate File Maintenance and Data Collection Procedures**

1. ODJFS will rule file an administrative rule requiring all PCSAs, PCPAs, and PNAs to establish and maintain a system of organizing and retaining files for all children in their temporary or permanent custody or for whom they are performing foster or adoptive placement services and for all families seeking to become foster and/or adoptive parents so as to readily facilitate monitoring and review of those agencies by ODJFS, OCR or ACF. ODJFS' administrative rules shall be as provided for in Exhibits M and N hereto.

2. ODJFS shall rule file administrative rules and forms, which shall be substantially in the form of Exhibits M, N, O and P hereto, requiring each PCSA to create and maintain the following information:

(a) The number of children in its permanent custody awaiting adoptive placement at any time;

Corrective Action and Resolution Plan  
July 15, 2004

(b) The number of minority children in its permanent custody awaiting adoptive placement at any time;

(c) The number of children in its permanent custody at any time who have been awaiting adoptive placement for one to twelve months since the order of the Juvenile Court placing permanent custody of the child in the PCSA became final and non-appealable.

(d) The number of minority children in its permanent custody at any time who have been awaiting adoptive placement for one to twelve months since the order of the Juvenile Court placing permanent custody of the child in the PCSA became final and non-appealable;

(e) The number of children in its permanent custody at any one time who have been awaiting adoptive placement for more than twelve months since the order of the Juvenile Court placing permanent custody of the child in the PCSA became final and non-appealable;

(f) The number of minority children in its permanent custody at any one time who have been awaiting adoptive placement for more than twelve months since the order of the Juvenile Court placing permanent custody of the child in the PCSA became final and non-appealable;

(g) The average time over the previous five calendar years from the date on which the order granting permanent custody of each child to the PCSA became final and non-appealable to the date on which each child was placed adoptively;

(h) The average time over the previous five calendar years from the date on which the order granting permanent custody of each minority child to the PCSA became final and non-appealable to the date on which each minority child was placed adoptively;

(i) The name of each child for which the PCSA has permanent custody;

(j) The date of birth for each child for which the PCSA has permanent custody;

(k) The RCNO for each child over which the PCSA has permanent custody pursuant to the AFCARS categories;

(l) The case number assigned to the child's case by the Juvenile Court which entered the permanent custody order for the child;

(m) The date on which the child was placed into his or her last foster placement prior to permanent custody being awarded to the PCSA;

Corrective Action and Resolution Plan  
July 15, 2004

(n) The date the PCSA filed its petition with the Juvenile Court seeking permanent custody over each child in its custody;

(o) The date on which the Juvenile Court entered its permanent custody order for each child in the custody of the PCSA;

(p) The name of the PCSA adoption worker assigned to each child in the PCSA's permanent custody;

(q) The date on which each child in the PCSA's permanent custody became legally available for adoptive placement;

(r) The date on which each child in the permanent custody of the PCSA was placed into his or her last foster placement prior to the child's adoptive placement;

(s) The date of the adoptive placement of each child over which the PCSA has permanent custody;

(t) The date of the finalization of the adoption of each child over which the PCSA has permanent custody;

(u) The date of the first placement committee meeting at which each child in the PCSA's permanent custody is considered for matching with a family;

(v) The date of all other placement committee meetings at which each child in the PCSA's permanent custody is considered for matching with a family;

(w) The name of any PCSA, PCPA, or PNA which the worker for the PCSA that has permanent custody of the child contacts about a possible match of the child and from which the worker obtains a homestudy of one or more families as consideration of a possible match for the child;

(x) The date of each meeting at which a child in the permanent custody of a PCSA is matched and the name of the family with whom the child is matched;

(y) The date of each "presentation" of a child by the PCSA to a family as a match;

(z) The date of the deadline given by the PCSA to a family to either accept or reject the proposed match;

(aa) The date of each family's acceptance or rejection of the proposed match;

Corrective Action and Resolution Plan  
July 15, 2004

(bb) The number of matches made each calendar year from 2004-2008 inclusive by each PCSA which are accepted by the family to whom the child is presented;

(cc) The number of matches made each calendar year from 2004-2008 inclusive which are rejected by the family with whom the child is matched; and

(dd) The number of placements made each calendar year from 2004-2008 which disrupt prior to finalization of the adoption,

3. No later than the Implementation Date, ODJFS shall have a system in place to maintain the following information:

(a) For each calendar year from 2004-2008, inclusive, the number of adoptive and foster care placements by all PCSAs, PCPAs, and PNAs in which it was determined that there was a compelling need to consider the child's and potential foster or adoptive family's RCNO in the placement process, along with the names of such children and of the agency or agencies involved in the placement process;

(b) For each calendar year from 2004-2008, inclusive, the number of children placed by all PCSAs, PCPAs, and PNAs;

(c) For each calendar year from 2004-2008, inclusive, the number of children for whom same race placements were made by all PCSA, PCPAs, and PNAs, and a breakdown by race of the total number of such placements;

(d) For each calendar year from 2004-2008, inclusive, the number of children for whom transracial placements were made by all PCSAs, PCPAs and PNAs;

(e) For each calendar year from 2004-2008, inclusive, the number of finalized adoptions for children in categories (a), (b), (c), and (d).

4. ODJFS shall rule file an administrative rule and form, which shall be substantially in the form of Exhibits M, N, O and P hereto and which shall provide that for each family seeking to adopt a child for whom a PCSA, PCPA or PNA has prepared a homestudy, that PCSA, PCPA or PNA must collect and maintain the following data:

(a) The name of each such family;

(b) If an individual is seeking to adopt a child, the name of the individual's partner, if any;

Corrective Action and Resolution Plan  
July 15, 2004

(c) The RCNO for each prospective adoptive parent and for the prospective adoptive parent's partner, if any;

(d) The date of the family's initial inquiry to the PCSA, PCPA or PNA about adopting a child through that agency;

(e) The name of the worker at the PCSA, PCPA or PNA who received the family's initial inquiry about possibly adopting a child;

(f) The date on which the PCSA, PCPA or PNA sent the adoption application to the family;

(g) The name of the worker for the PCSA, PCPA or PNA assigned to do the family's adoption homestudy;

(h) The date that the family's application to adopt is received by the PCSA, PCPA or PNA;

(i) The date that the PCSA, PCPA or PNA commences the family's homestudy;

(j) The date the PCSA, PCPA or PNA completes the family's homestudy;

(k) For a family which receives an adoptive placement with its foster child, the date of the child's foster care placement with that family;

(l) For a family which receives an adoptive placement with its foster child, the date of the adoptive placement;

(m) The date of the PCSA, PCPA or PNA's approval or disapproval of the family's homestudy;

(n) The date that an application to adopt is assigned to a worker for the PCSA, PCPA or PNA to do a homestudy;

(o) The date of the first meeting at which a family is presented to the placement committee and considered as a possible adoptive match for one or more children, and the name of each such child;

(p) The dates of all other placement meetings at which a family is presented as a possible match for a child and the name of each child for whom the family is considered as a possible match.



**F. Establishment of a Formal Complaint Process for MEPA and Title VI Discrimination Complaints**

ODJFS shall rule file administrative rules which set forth the terms of a complaint process for discrimination complaints arising out of the adoption or foster care placement process against any PCSA, PCPA or PNA. The complaint process shall be described in a writing which shall be made available to all individuals inquiring about or receiving foster care or adoption services through a PCSA, PCPA or PNA. In particular, any potential adoptive or foster-to-adopt parent shall receive written information regarding the existence of and the operation of the complaint process with the application materials which they receive from the PCSA, PCPA, or PNA. These materials shall include an explicit statement that the PCSA, PCPA or PNA is not permitted to discriminate against a child or family on account of RCNO in either the foster or adoptive placement process. They shall indicate that discrimination is prohibited in all phases of the placement process, including, but not limited to, the homestudy, the consideration of the family for a match with a child, and the negotiation and implementation of a monthly adoption subsidy after the match has been made; and that retaliation by the agency at any point in the placement process against a family which complains to the agency itself or to ODJFS or OCR regarding alleged discrimination on account of RCNO is similarly prohibited.

The complaint process will allow any individual who believes that he or she, or any specific class of persons, has been subjected to discrimination based on his, her, or their RCNO or that of the child or children with whom he, she or they seek to be placed to file a complaint with the PCSA, PCPA, or PNA where that individual or class is receiving services or with ODJFS. The PCSA, PCPA, or PNA shall serve a copy of each complaint on ODJFS within ten business days of receipt. ODJFS will provide a copy of the complaint to the ODJFS Monitor, whose position and duties are described in Section III.I, below. The status of each complaint shall be logged by ODJFS. All complaints shall be investigated by ODJFS, and a final report will be served on the complainant, the PCSA, PCPA, or PNA and the Monitor within ninety days after the complaint is received by ODJFS. No person who has filed a complaint, testified, assisted, or participated in any manner in the investigation of a complaint, shall be intimidated, threatened, coerced or retaliated against. The administrative rule effecting this formal complaint process, as well as all ODJFS-mandated complaint forms shall be submitted to OCR and ACF by no later than July 30, 2004. ACF and OCR shall promptly review the proposed complaint process and forms and provide comment on them to ODJFS. ODJFS will then submit a final version of the complaint process and forms that ACF and OCR determine to be acceptable by no later than August 16, 2004, unless ACF and OCR, in their discretion, agree to extend the time for ODJFS to submit an acceptable version of the complaint process. Once the complaint process and forms have been approved by ACF and OCR, it will be attached as Exhibit Q hereto and its terms will be incorporated by reference herein.

### **G. Require PCSA, PCPA, and PNA to Submit Corrective Action Policies For Employees Who Violate MEPA**

ODJFS shall rule file administrative rules requiring all PCSAs, PCPAs, and PNAs to adopt written policies establishing the procedures to be followed when an employee of the agency has intentionally violated MEPA and actions the agency will take to ensure such employee will not commit future MEPA violations, including disciplinary action. The rules will require the agency to submit an acceptable corrective action plan to ODJFS whenever an intentional violation has occurred. These rules shall be substantially in the form of Exhibits K and R hereto.

### **H. Training**

1. Prior to the Implementation Date and after approval of training materials by OCR and ACF, ODJFS shall provide detailed training to PCSA, PCPA and PNA supervisors and assessors. The training materials shall be submitted by ODJFS to OCR and ACF for review no later than forty-five (45) days after the Effective-Date. ODJFS shall provide training to foster care workers and adoption case workers, either directly or through their supervisors, on Title VI and MEPA and all relevant Federal regulations and Ohio laws, administrative rules, policies and practices relating to and implementing MEPA and Title VI. The training shall also include a discussion of the prohibition on retaliation against anyone who files a complaint alleging discrimination based on RCNO, including retaliation against agency employees and against potential adoptive and foster families. The discussion of the retaliation prohibition shall include specific examples such as the prohibition on an agency short-changing a family in the amount of the adoption subsidy which the family receives for a child the family adopts because of a discrimination complaint the family has filed as well as the prohibition against creating a hostile, aggressive and/or offensive work environment for an adoption assessor who complains of discrimination based on RCNO in the agency's adoption placement process. By no later than forty-five days prior to the Implementation Date, ODJFS shall submit to ACF and OCR the names and curriculum vitae of all of the trainers whom ODJFS proposes to employ in the training for approval by ACF and OCR.

2. No later than the Implementation Date, ODJFS shall conduct special remedial trainings on Title VI, MEPA, and other relevant Federal laws and regulations and Ohio laws, administrative rules, policies and practices, for all section chiefs, supervisors, adoption assessors and foster care workers employed by HCJFS in the Children's Services Division as well as all PCPAs and PNAs which have contracts with HCJFS to provide adoption or foster care placement services.

3. Within forty-five (45) days after the Implementation Date, ODJFS shall review all of the training materials being used by all PCSAs, PCPAs, and PNAs in "pre-service training" for families seeking to become licensed to be foster parents and/or eligible to become adoptive parents which pertain to "cultural" or "RCNO" issues to determine their compliance with Title VI, MEPA, and all of the new or amended ODJFS administrative rules described elsewhere in this Plan as well as the existing ODJFS administrative rules governing adoption and foster care placements and Ohio

Corrective Action and Resolution Plan  
July 15, 2004

statutes which implement MEPA and Title VI. Within thirty (30) days thereafter, ODJFS shall report in writing to OCR and ACF on its evaluation of those materials as to their compliance with MEPA and Title VI. For any materials which ODJFS finds out of compliance, it shall inform in writing the PCSA, PCPA or PNA of the reasons why the materials do not comply and shall provide the agency no more than thirty (30) days in which to bring their materials into compliance with Title VI, MEPA, and the relevant Ohio statutes and ODJFS administrative rules. ODJFS shall send copies of such written notifications to OCR and ACF at the same time it issues them, along with the offending materials. ODJFS shall also send to OCR and ACF copies of the revised materials that it receives from the PCSA, PCPA, and PNA within ten (10) days of its receipt. In addition, ODJFS shall make available to OCR and ACF at any time after forty-five (45) days following the Implementation Date, any and all of the training materials from the PCSAs, PCPAs, and PNAs which OCR and/or ACF request to review.

### **I. Monitoring**

Within ninety (90) days after the Effective Date, ODJFS shall nominate an individual not currently employed by ODJFS to serve as an external monitor (Monitor) to monitor ODJFS' compliance with MEPA, with Title VI, as it pertains to adoption and foster care placements, and with the Plan. Said individual must have expertise in child welfare issues and civil rights law. ODJFS shall submit the name of the individual along with his or her curriculum vitae, recommendations and other pertinent documents to OCR and ACF for their review. OCR and ACF shall be permitted to interview the proposed monitor and shall have the right to approve or disapprove the selection. If either OCR or ACF do not approve ODJFS' selection, the disapproving agency shall inform ODJFS of the basis of the decision and ODJFS shall then seek another candidate. This process shall continue until ODJFS selects a proposed monitor who is acceptable to both OCR and ACF.

ODJFS shall enter into a contract with the Monitor providing for the payment of fees with the expectation that the Monitor will spend approximately 1000 hours in the first year of his or her service and approximately 500 hours per year for the next four years fulfilling his or her duties under this Plan. The first year for these purposes will be from the Implementation Date to the one-year anniversary of the Implementation Date and each "year" thereafter will be from an anniversary of the Implementation Date to the next anniversary of the Implementation Date. In addition to paying the Monitor a fee for his or her services, ODJFS shall also reimburse the Monitor for his or her reasonable out-of-pocket expenses. The Monitor shall be in place for a total of five (5) years beginning on the Implementation Date. ODJFS shall pay the fees and reimburse expenses of the Monitor at the contracted rate. The reimbursement of expenses shall be subject to the requirements of the expense reimbursement instructions issued by the Ohio Office of Budget and Management and the ODJFS expense reimbursement policies which will be incorporated into the contract.

The Monitor's duties shall include, but not necessarily be limited to: conducting an ongoing review and evaluation of ODJFS's implementation of its oversight plan contained in Exhibit D hereto; attendance at a sample of placement meetings conducted by PCSAs, PCPAs and PNAs

Corrective Action and Resolution Plan  
July 15, 2004

throughout Ohio; conducting interviews of or focus groups with potential or current adoptive and foster parents; conducting interviews of or focus groups with PCSA, PCPA and PNA foster and adoption staff; reviewing and commenting upon any proposed amendments to ODJFS' administrative rules, policy directives, training materials, etc. that pertain to adoptions and foster care; making site visits to ODJFS or the offices of any PCSA, PCPA, or PNA; and providing oversight and evaluation of ODJFS' compliance with this Plan.

Beginning on the seven month anniversary of the Implementation Date and continuing every six months thereafter until the Monitor has served for five years, the Monitor shall submit to OCR and ACF a detailed written report of his work and his findings as to ODJFS' compliance with MEPA, Title VI, as it applies to the foster care and adoption process, and the Plan during the six month period ending one month prior to the Monitor's submission of his or her report. The Monitor shall submit his final report to ACF and OCR one month after the five year anniversary of the Implementation Date with that report covering the six month period ending on the five year anniversary of the Implementation Date. The Monitor shall also be available at all reasonable times throughout the period of his or her tenure to speak with OCR or ACF about any issue pertaining to ODJFS' compliance with the Plan.

In the event that the original Monitor chosen pursuant to this provision resigns or otherwise becomes unable to perform his duties, ODJFS shall choose a successor monitor as quickly as feasible pursuant to the provision set forth in the first paragraph of this subsection.

#### **J. Prohibition on Retaliation**

ODJFS shall rule file administrative rules prohibiting all PCSAs, PCPAs, and PNAs from retaliating against any potential or actual adoptive or foster family, any PCSA, PCPA, or PNA employee, or any employee of any other agency with responsibilities regarding the care or placement of a child in the temporary or permanent custody of the PCSA, PCPA and PNA, including, but not limited to, a guardian ad litem or CASA volunteer, who complains orally or in writing to the PCSA, PCPA, PNA, ODJFS, OCR, ACF, or any other appropriate governmental agency, including a state anti-discrimination agency, regarding alleged discrimination on account of the alleged discriminatory use of RCNO in the child's placement process. The rules shall contain illustrations of retaliatory conduct including reduction in the size of an adoption subsidy which a family should receive based on the child's needs in response to the family's complaint and unwarranted poor evaluations for the employee by his or her supervisor. The ODJFS administrative rules shall be substantially in the form of Exhibits B and C hereto.

#### **K. Assurance of HCJFS's Performance**

1. ODJFS, exercising its supervisory authority over its PCSAs, shall cause HCJFS to execute the Agreement simultaneously with ODJFS's execution of the Plan.

Corrective Action and Resolution Plan  
July 15, 2004

2. On July 3, 2002, a Consent Decree was entered by the District Court in the *Doe* Litigation under which HCJFS undertook certain responsibilities and duties. The Consent Decree has a term of five years.

3. HCJFS shall submit to ODJFS and OCR copies of every report completed by the monitor appointed by the court pursuant to the Consent Decree within ten days of receipt of the reports by HCJFS. In addition, HCJFS shall submit copies of each report completed by the HCJFS internal MEPA monitor regarding weekly Matching Committee meetings within seven days of completion.

4. Six months prior to the original termination date set forth in the Consent Decree, ODJFS, exercising its supervisory authority over its PCSAs, shall cause HCJFS to nominate an individual not then currently employed by HCJFS to serve as an HCJFS external monitor (HCJFS Plan Monitor) to monitor HCJFS's compliance with MEPA, Title VI as it pertains to adoption and foster care placements, and all provisions of this Plan which pertain to the policies, practices and procedures of PCSAs such as HCJFS. The HCJFS Plan Monitor must be trained in child welfare issues and civil rights law. HCJFS shall submit the name of the individual along with his or her curriculum vitae, recommendations and other pertinent documents to OCR for review. OCR shall be permitted to interview the proposed monitor and shall have the right to approve or disapprove the selection. If OCR does not approve HCJFS's selection, OCR shall inform HCJFS in writing of the basis of the decision and HCJFS shall then seek another candidate. This process shall continue until HCJFS shall have nominated a proposed monitor who is acceptable to OCR. HCJFS may, but shall not be required, to nominate for the position of HCJFS Plan Monitor an individual currently serving in the capacity of court-appointed monitor in the *Doe* Litigation. The cost of the HCJFS Plan Monitor's services shall be borne by HCJFS. The HCJFS Plan Monitor's term shall be for the time remaining from the date on which the selection of the HCJFS Plan Monitor is approved by OCR through the five-year anniversary of the Implementation Date.

In the event that HCJFS does not nominate an individual to serve as the HCJFS Plan Monitor within six months of the original termination date set forth in the Consent Decree or HCJFS has not nominated a Plan Monitor who is acceptable to OCR within three months of the original termination date of the Consent Decree, OCR shall have the right to designate a Plan Monitor who shall serve from the original termination date of the Consent Decree through the five-year anniversary of the Implementation Date and shall have all of the duties of the Plan Monitor described below just as if he or she had been chosen by HCJFS. In the event that the Plan Monitor is chosen pursuant to the provisions of this paragraph, HCJFS shall pay the fees and reasonable out-of-pocket expenses of the Plan Monitor on the same terms and conditions as if the Plan Monitor had been chosen by HCJFS.

ODJFS shall ensure that the HCJFS Plan Monitor's duties include:

(a) Evaluating on a regular basis the compliance by HCJFS with Title VI, MEPA and the terms of the Agreement, including, but not limited to, HCJFS's compliance with all of the new ODJFS administrative rules promulgated and adopted pursuant to this Plan;

Corrective Action and Resolution Plan  
July 15, 2004

(b) Periodically attending and reporting in writing on HCJFS Matching Committee Meetings;

(c) Providing written reports to OCR on the status of HCJFS's implementation of and adherence to the terms of the Agreement and on HCJFS's compliance with Title VI and MEPA. These reports shall begin on the sixth month anniversary of the HCJFS Plan Monitor's appointment, and continue every six months thereafter until the tenure of the HCJFS Plan Monitor is concluded, except that the HCJFS Plan Monitor shall file a final report with OCR as requested by OCR. The HCJFS Plan Monitor shall also be available at all reasonable times throughout his tenure to speak with OCR about any issue pertaining to HCJFS's compliance with the Agreement. The periodic reports may include any recommendations the HCJFS Plan Monitor has regarding ways in which to improve HCJFS's compliance with Title VI, MEPA and the Agreement;

(d) Making site visits to offices, homes and places where services covered by this Plan are delivered by HCJFS. Interviewing individuals delivering, receiving or seeking services, reviewing documents, files, records, audio tapes and any other thing the HCJFS Plan Monitor deems necessary to assess HCJFS's compliance with the Agreement, Title VI and MEPA;

(e) Reviewing and approving any proposed amendments, revisions, or changes to HCJFS's Adoption Handbook, Matching Committee Protocol, MEPA Practice Guidance, the MEPA Fact Sheet attached as part of Exhibit S hereto, and the resource materials provided to prospective foster and adoptive parents by HCJFS concerning transracial/transcultural issues; and

5. ODJFS, exercising its supervisory authority over the PCSAs, shall cause HCJFS to provide the HCJFS Plan Monitor with access to all documents, case records and other materials in the possession or control of HCJFS including all such records that come into being after the Implementation Date.

6. ODJFS shall ensure OCR that in the event the HCJFS Plan Monitor resigns or otherwise becomes unable to perform his duties, HCJFS will nominate a substitute HCJFS Plan Monitor as quickly as feasible, in accordance with the procedure in Section IV.B.1 of this Plan.

7. ODJFS, exercising its supervisory authority over the PCSAs, shall cause HCJFS to amend its Matching Committee Protocol to bring it into compliance with the rules to be filed by ODJFS pursuant to Section III C of this Plan. The amendments to the Protocol must take effect no later than sixty (60) days after the effective date of the rule filed by ODJFS pursuant to Section III C(1) of this Plan. Any changes to the Protocol during the period from the Effective Date through the five-year anniversary of the Implementation Date shall be submitted to OCR for approval.

8. ODJFS, exercising its supervisory authority over PCSAs, shall cause HCJFS, within sixty (60) days after the Effective Date, to implement a written procedure consistent with the Protocol provisions regarding the maintenance and updating of match charts. ODJFS shall cause HCJFS, no

Corrective Action and Resolution Plan  
July 15, 2004

later than ninety (90) days after the Effective Date, to certify and provide documentation to OCR that it has implemented the procedure. The documentation submitted to OCR may include samples of match charts demonstrating that HCJFS is maintaining and updating charts as required. The written procedure which ODJFS shall cause HCJFS to implement is set forth at Exhibit T hereto.

9. ODJFS, exercising its supervisory authority over PCSAs, shall cause HCJFS, within sixty (60) days after the Effective Date, to implement a written procedure consistent with the Protocol provisions regarding the maintenance and timely distribution of lists of prospective adoptive families waiting to be matched with children and lists of children waiting for an adoptive placement. ("waiting lists"). ODJFS shall cause HCJFS, no later than ninety (90) days after the Effective Date, to certify and provide documentation to OCR that it has implemented the waiting list procedure. The documentation submitted to OCR may include copies of waiting lists maintained and distributed in the manner required. HCJFS' written procedure is set forth in Exhibit U hereto.

10. ODJFS, exercising its supervisory authority over PCSAs, shall cause HCJFS, within sixty (60) days after the Effective Date, to implement a written procedure consistent with the Protocol provisions regarding adoption workers' obligation to provide the Matching Committee facilitator with information about children and families pursuant to the schedule set forth in the Protocol. The procedure will also include provisions governing the discipline of any workers who do not comply with the Protocol schedule. ODJFS shall cause HCJFS, no later than ninety (90) days after the Effective Date, to certify and provide documentation to OCR that it has implemented the procedure. The documentation submitted to OCR may include written information establishing that the Matching Committee facilitator timely received information from adoption workers as required. HCJFS' procedure is set forth in Exhibit S hereto.

11. ODJFS, exercising its supervisory authority over PCSAs, shall cause HCJFS, within thirty (30) days after the Effective Date, HCJFS to certify that it has implemented a practice of including a non-HCJFS employee as a voting member of the Matching Committee each week, as originally set forth in the September 15, 2003 edition of the Matching Committee Protocol. The documentation submitted to OCR may include samples of Matching Committee records establishing that a non-HCJFS employee served as a Committee Member as required.

12. ODJFS, exercising its supervisory authority over PCSAs, shall cause HCJFS, to comply with the rule required by Section III C (1) of this Plan by revising their match chart. ODJFS shall cause HCJFS, no later than sixty (60) days after the effective date of said rule, to certify to OCR that it has implemented the requirements of said rule, and shall provide OCR with a copy of a revised match chart.

13. ODJFS, exercising its supervisory authority over PCSAs shall cause HCJFS to comply with the rule required by Section III C (4) of this Plan. ODJFS shall cause HCJFS, no later than sixty (60) days after the effective date of said rule, to certify and provide documentation to OCR that it has implemented the requirements of said rule. The documentation submitted to OCR may include

Corrective Action and Resolution Plan  
July 15, 2004

samples of Matching Committee records demonstrating that information about out-of-town families have been integrated as required.

14. ODJFS, exercising its supervisory powers over PCSAs, shall cause HCJFS as of thirty days after the Effective Date to amend its Matching Protocol, to cease its practice of presenting to Matching Committee members photographs of the potential adoptive parents being considered as a match for the child.

15. ODJFS, exercising its supervisory powers over PCSAs, shall cause HCJFS, within thirty (30) days after the Effective Date, to add to its training and resource materials links to the OCR website for "adoption and foster care" and the ACF website for "MEPA."

16. Within 90 days of the Effective Date, ODJFS, exercising its supervisory powers over PCSA's, shall cause HCJFS to implement a plan requiring the conduct of annual audits (Audit Plan), as set forth in Exhibit W hereto, by which HCJFS shall cause to be audited the adoption assistance subsidies provided by it to families who adopt children in the permanent custody of HCJFS. For each calendar year from 2004 through 2008, inclusive, HCJFS shall cause a written, annual audit report (Plan Audit) to be tendered to OCR, pursuant to the terms of the Audit Plan.

The Audit Plan must provide that the audit will be conducted by HCJFS's Accreditation and Continuous Quality Assurance Section (ACQI) under conditions which insure ACQI's independence from all of HCJFS's other operations, including, but not limited to, the operations of HCJFS' Children's Services Division. The Audit Plan must also provide that the ACQI will report directly to HCJFS' Director for purposes of its conduct and preparation of the Plan Audits. The Audit Plan must also provide that if, for any reason, the ACQI ceases to perform the Plan Audits that HCJFS shall submit a revised Audit Plan to OCR within thirty (30) days, setting forth how it proposes to have the Plan Audits conducted, which revised Audit Plan shall be subject to OCR's approval.

The intent of the annual Plan Audits is to ensure that there is no discrimination on account of RCNO in the adoption subsidies that HCJFS provides to families who accept transracial adoptive placements.

As part of the audit process, HCJFS shall collect and tender to the ACQI the following data:

- a. The name, age and race of each child who was in HCJFS's permanent custody at any point during the previous calendar year and who was placed for adoption by HCJFS at some time during that calendar year;
- b. The nature and degree of each physical, mental or psychological disability suffered by each child who was in HCJFS's permanent custody at any point during the previous calendar year and who was placed for adoption by HCJFS at some time during that calendar year.



Corrective Action and Resolution Plan  
July 15, 2004

- c. The name(s), residential address, age, and race of each family who adopted a child during the previous calendar year who was in HCJFS's permanent custody at some point during that calendar year;
- d. The name of each child adopted through HCJFS by a family described in subparagraph (c) immediately above;
- e. For each child adopted through HCJFS, the specific amounts, when available or a range of amounts when specific amounts are not available, which HCJFS agreed to pay in the audit assistance agreement it entered into with the adoptive family for special services to be provided to the child over the basic services of clothing, food, etc., provided to all children as part of the adoption assistance package. "Special services" could include, but would not be limited to, the cost of special medical equipment, mental health treatment provided by a child psychologist or child psychiatrist, special day care programs, speech therapy, etc;
- f. For all special services described in subparagraph (e) above, the name, address, and profession of the provider of the services;
- g. For each child whom HCJFS placed with an adoptive family in the previous calendar year, and who received an adoption assistance subsidy, the total monthly amount of the adoption subsidy awarded by HCJFS to the adoptive family for that child and a breakdown of the subsidy amount which includes: (i) the amount of the total subsidy that represents the general subsidy given by HCJFS to families who adopt through HCJFS; (ii) the amount of each "special subsidy," such as a subsidy for participation in a special day care program or a subsidy for speech therapy, etc, if known; or the amount above the general subsidy; and (iii) any other information regarding the breakdown of the subsidy given to a family to defray the costs of services for a child who the family was adopting through HCJFS;
- h. For each family with whom HCJFS had placed one or more children for adoption during or in a year prior to the previous calendar year and which family sought an increase in its adoption subsidy from HCJFS during the previous calendar year, all of the information about that child, family and the adoption subsidy award originally given to the family by HCJFS which is described in subparagraphs (c), (d), and (g) above;
- i. For each family identified in subparagraph (h) above, all correspondence involving the request for a higher subsidy whether from the family, HCJFS or a third party;
- j. For each family described in subparagraph (h) above, the disposition of the family's request for an increased subsidy and, if granted, the total amount of the new subsidy and the breakdown of the new amount containing the information described in subparagraph (i) above; and

k. Any additional information and data the ACQI requests to enable it to conduct the analysis described in the Audit Plan, attached as Exhibit W.

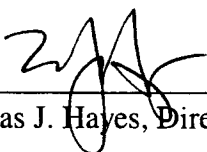
#### **IV. HCJFS RESOLUTION AGREEMENT PROVISIONS**

HCJFS acknowledges that it has read Sections I, II and III of this document. The provisions of Sections I, II, and III of this document are explicitly incorporated by reference into this Section IV and deemed applicable to HCJFS in all relevant respects. HCJFS agrees that it is bound in all respects by all provisions of the document which refer to HCJFS, in particular, or that pertain to the duties and obligations of any PCSA. HCJFS hereby agrees to take all actions set forth in Sections I, II or III of this document pertaining to PCSAs and/or HCJFS, including, but not limited to the timely performance of the HCJFS obligations set forth in Section III.K of this document. HCJFS further acknowledges that the obligations set forth in Section III.K also constitute a binding corrective action plan with ODJFS and agrees to perform those obligations as specified.

Corrective Action and Resolution Plan  
July 15, 2004

**SIGNATURE OF RESPONSIBLE REPRESENTATIVE OF OHIO  
DEPARTMENT OF JOB AND FAMILY SERVICES EFFECTUATING  
ITS OBLIGATIONS TO ACF AND OCR UNDER ITS CORRECTIVE  
ACTION AND RESOLUTION PLAN AS SET FORTH IN SECTIONS I, II AND III  
OF THIS DOCUMENT**

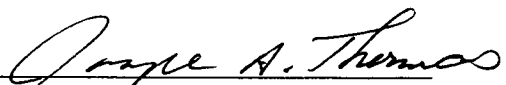
Submitted and agreed to on behalf of the Ohio Department of Job and Family Services:

By:   
Thomas J. Hayes, Director

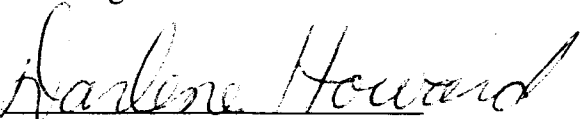
Date: 7/14/04

**HHS APPROVALS OF ODJFS CORRECTIVE ACTION AND RESOLUTION PLAN**

Approved on behalf of the Administration  
for Children and Families:

  
Joyce A. Thomas, Regional Administrator,  
Region V

Approved on behalf of the Office for  
Civil Rights

  
Darlene Howard Acting Regional Manager,


Date: 07/21/04

Date: 7/19/04

Corrective Action and Resolution Plan  
July 15, 2004

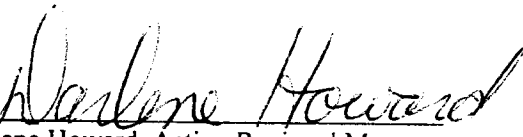
**SIGNATURE OF RESPONSIBLE REPRESENTATIVE OF  
HAMILTON COUNTY JOB AND FAMILY SERVICES  
EFFECTUATING ITS RESOLUTION AGREEMENT WITH OCR  
AS SET FORTH IN SECTION IV OF THIS DOCUMENT**

Submitted and agree to on behalf of Hamilton County Job and Family Services

By:   
Suzanne Burke, Director or  
Larry Mitchell, Acting Director

Date: 

**Approved on behalf of the Office for Civil Rights**

By:   
Darlene Howard, Acting Regional Manager,  
Region V

Date: 7/19/04