

RESOLUTION AGREEMENT

BETWEEN

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

AND

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF CHILD AND FAMILY SERVICES

(OCR 09-99-7001)

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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) compliance review of the State of Nevada, Department of Human Resources, Division of Child and Family Services (DCFS). OCR conducted the review 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 placements based on race, color, or national origin.
- B. DCFS 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 review.
- D. DCFS 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 DCFS and OCR. The Agreement will remain in effect until OCR has verified DCFS has implemented all actions specified in Section III of the Agreement.
- B. DCFS acknowledges its continuing obligation to comply with any and all provisions of Title VI and MEPA/Section 1808.
- C. Agreement by DCFS to take the steps set forth herein does not affect any other issues, reviews, or complaints of discrimination involving DCFS that may be pending before OCR or another Federal agency. Any other compliance matters arising subsequent to this Agreement shall be addressed and resolved separately in accordance with the procedures and standards in the regulations applicable to such matters.
- D. DCFS 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.

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- E. OCR may, at any time, review DCFS'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 DCFS to provide written reports, and to permit OCR to inspect the premises, interview witnesses and examine and copy documents to determine if DCFS is complying with the provisions of the Agreement. DCFS 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 DCFS.
- G. If at any time OCR determines DCFS has failed to comply with any provision of this Agreement, OCR will promptly notify DCFS in writing. The notice shall include a statement of the basis for OCR's decision and allow DCFS 15 days to explain in writing the reasons for its actions. The time frames allowed for DCFS's response may be less than 15 days whenever OCR determines a delay would result in irreparable injury to affected parties. If DCFS does not respond to the notice or, upon review of DCFS's response, OCR finds DCFS has not complied with any provision of the Agreement, OCR may request the initiation of administrative or judicial enforcement proceedings to secure DCFS's compliance with Title VI and MEPA/Section 1808. Evidence regarding DCFS's alleged violations of Title VI and MEPA/Section 1808, in addition to evidence regarding DCFS'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 DCFS 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.
- I. When OCR verifies DCFS has completed all actions contained in this Agreement, OCR will consider all matters related to this review resolved and so notify DCFS in writing.

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- J. OCR shall provide DCFS 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

DCFS shall take the actions set forth below:

- A. Amend written instructions, policies, and other documents as necessary, to comply with the requirements of MEPA/Section 1808.
- B. Add "race" as a factor not to be disclosed to other parties in an adoptive placement at Section 701 H 2. of the Adoption Manual.
- C. Remove "Culture" from the "Cultural/Racial Needs" sub-section at Section 705 D 3 of the Adoption Manual.
- D. Revise the Substitute Care Manual as necessary to comply with the requirements of MEPA/Section 1808. DCFS areas for revisions shall include Section 504 B, Section 521 H 2., and Chapter R200.
- E. Eliminate, from the Application for Adoption 3021 - SG (8/84) form sections that identify an applicant's race, national descent, place of birth, and hair and eye color.
- F. Remove, from the "available foster homes" lists provided to children social workers any references to race, ethnicity, or national origin.
- G. Provide training, which shall be on-going, to adoption and foster care children's social workers and supervisors on MEPA/Section 1808 requirements.
- H. Provide notice, which shall be on-going, to applicants, care givers, and placement agencies under contract or agreement with DCFS that it follows MEPA/Section 1808 in its foster care and adoption placement decisions and inform them of DCFS's

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procedures to address MEPA/Section 1808 issues and concerns. DCFS may included notice in general information brochures and pamphlets to meet this element.

- I. Review internal home study practices and the practices of agencies that conduct home studies for DCFS to ensure they do not denied or discourage potential parents from fostering or adopting transracially because of race/ethnicity.
- J. Implement a system for documenting the rationale and scrutinizing the validity of placement decisions that consider race/ethnicity.
- K. Amend the interpreter service policy statement in the recruitment plan, and in other policies and procedures as appropriate, to clarify that DCFS provides interpreters to clients free of cost.
- L. Notify clients about the amended interpreter service policy and how to obtain an interpreter through DCFS. DCFS may include notice in general information brochures and pamphlets to meet this element.
- M. Track, on an on-going basis, the average time from termination of parental rights to placement by race/ethnicity of the child and adoptive or foster family.
- N. Track, on an on-going basis, the number of children by race and ethnicity
 - a) awaiting adoptive placement;
 - b) awaiting adoptive placement for 1 - 12 months,
 - and c) awaiting adoptive placement more than 12 months.
- O. Track, on an on-going basis, the number of children by race and ethnicity in emergency care or shelter care
 - a) awaiting foster care placement;
 - b) awaiting foster care placement for 1 - 12 months,
 - and c) awaiting foster care placement more than 12 months.

IV. Reporting Requirements

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

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- A. Within nine months of signing this Agreement, DCFS shall submit to OCR documentation that it has completed all actions specified at Section III. A - O.
- B. Within six months of signing this Agreement, DCFS shall submit to OCR documentation it has implemented a system for tracking the data specified at Section III. M - O.
- C. Within nine months of signing this Agreement, DCFS shall submit to OCR the first of four semi-annual statistical reports covering the data specified at Sections III. M - O.

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

DCFS shall submit sufficient documentation to OCR that it has completed all actions set forth in Section III of this agreement. DCFS'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.

Child Protective Services
Representative

Date

Ira C. Pollack
Regional Manager
Office for Civil Rights, Region IX

Date