

RESOLUTION AGREEMENT

BETWEEN

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

AND

COUNTY OF FRESNO
HUMAN SERVICES SYSTEM
CHILDREN AND FAMILY SERVICES

(OCR 09-00-3381)

RESOLUTION AGREEMENT

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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 Fresno, Human Services System, 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-IEP). Title VI and MEPA-IEP prohibit discrimination in adoption and foster care placement decisions based on race, color, or national origin. The complainant alleged CFS had violated Title VI and MEPA-IEP by (1) placing her former foster child with an adopt-risk family based on the child's race/ethnicity, and (2) denying the complainant a foster care license based on her race.
- 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-IEP.
- C. OCR acknowledges that CFS, in developing the forms, policies, and procedures subject to modification under Section III, had relied on regulations and policies promulgated by the State of California Department of Social Services.
- D. OCR's investigation did not reveal sufficient evidence to determine whether the complainant's allegations were true or false. However, in the interest of ensuring equal access to adoption and foster care services, and without admitting liability, CFS agrees to the terms set forth in this Agreement.
- E. This Agreement fully resolves the allegations of the complaint

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-IEP.

- 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 involving CFS 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. 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-IEP. Evidence regarding CFS's alleged violations of Title VI and MEPA-IEP, 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.

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.

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, for MEPA-IEP compliance, all policies, procedures, forms, and other documents that address adoptive and foster placement decisions, and purge or amend all documents in which language prohibited by MEPA-IEP is found. Documents to be purged or amended as necessary shall include those currently in use and those intended for use in the future.
- C. As part of the review identified in Specific Item B., above, the agency will amend documents as described in C. 1. through 3., 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. In particular, the following amendments will be made:

Items identifying parents' ethnicity will be deleted from the Home Available form and the Home Study Outline;

2. The question "If not ethnic match, how will you meet the child's cultural needs" will be deleted from the Home Study Outline;
3. The policy and procedure guide (PPG) item that presents CFS's procedure on moving an adoptable child from one placement to another when reunification is unlikely (the document does not give an item number), will be amended such that provision 1(B)(1), which instructs the adoption worker to discuss the specifics of the child to the placement coordinator, does not include "ethnicity."

D. Develop and disseminate to all foster care and adoptions staff a comprehensive written policy for MEPA-IEP compliance that incorporates, but is not limited, to the following elements:

1. An overview of the MEPA-IEP requirements, referencing ACF Policy Memorandum No. ACYF-IM-CB-98-03.
2. An instruction that staff may not use "cultural considerations" as a proxy for race, ethnicity, or national origin in making placement decisions.
3. An instruction that staff not use an applicant's race, ethnicity, or national origin as criteria when conducting searches for foster or adoptive homes.
4. An instruction to social workers who complete home studies that they must not attempt to analyze or discuss an applicant's general ability to meet children's racial or cultural needs. This does not prevent workers from evaluating an applicant's ability to meet the racial and cultural needs of a specific child, if it is well-documented that the child has compelling racially- or ethnically-based needs.
5. Explicit procedures for documenting the rationale, and for scrutinizing the legal validity, of specific foster care or adoptive placement decisions where race,

ethnicity, or national origin is considered.

6. A due process-based grievance procedure to address MEPA-IEP complaints.
- E. Disseminate the policies and procedures established pursuant to Specific Item D. to all home finding agencies under contract with the agency, and notify them that they must comply with the requirements of MEPA-IEP.
- F. Include the policy for MEPA-IEP compliance identified in Specific Item D., above, and a copy of ACF Policy Memorandum No. ACYF-IM-CB-98-03, in CFS's policies and procedures manual.
- G. As necessary, 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 the time-frame described in IV.A. 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.
- H. Post signs at all points of public contact, including reception areas, waiting areas, and meeting rooms, stating that the agency does not discriminate on the basis of race, color, or national origin in making foster care and adoption placement decisions. The signs will identify a coordinator for discrimination complaints, the coordinator's telephone number, and the agency's TDD number. The information included on the signs will be the agency's "nondiscrimination notice."
- I. Incorporate the nondiscrimination notice described in H., above, into all foster care and adoption application forms.
- J. Incorporate the nondiscrimination notice described in H., above, into all foster care and adoption program brochures.
- K. Train all foster care and adoptions staff, including supervisors and managers, on the MEPA-IEP policies and procedures established pursuant to Specific Item D. within the timeframe specified in IV.A., and annually thereafter. Incorporate the training materials into new employee orientation packets.

- L. Add a segment on the requirements of MEPA-IEP to the agency's orientation curriculum for foster care and adoption applicants, and otherwise amend the curriculum as necessary to comply with MEPA-IEP.
- M. Report, on a semi-annual basis, for 24 months, beginning September 30, 2002:
1. the total number of children awaiting adoptive placement¹ as of the last day of the reporting period (e.g., as of September 30, 2002, for the first report)
 2. the number of minority children awaiting adoptive placement as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
 3. the total number of children awaiting adoptive placement for 1-12 months as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
 4. the number of minority children awaiting adoptive placement for 1-12 months as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
 5. the total number of children awaiting adoptive placement more than 12 months as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
 6. the total number of minority children awaiting adoptive placement more than 12 months as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
 7. the average time to adoptive placement for all children adopted within the reporting period (e.g., the preceding six months)
 8. the average time to adoptive placement for minority children adopted within the reporting period (e.g., the preceding six months)
 9. the average time to adoptive placement by race/ethnicity of the child and

¹"Awaiting adoptive placement" means adoption is the case plan goal for the child, or parental rights have been terminated.

adoptive family, for children adopted within the reporting period (e.g., the preceding six months)

- 10 the total number of families waiting to adopt as of the last day of the reporting period (e.g., September 30, 2002 for the first report)
- 11 the total number of families, as of the last day of the reporting period, willing to adopt:
 - a. a child of full African-American descent
 - b. a child of partial African-American descent
 - c. a child of full Hispanic descent
 - d. a child of partial Hispanic descent
 - e. a child of full Asian descent
 - f. a child of partial Asian descent
 - g. a child of full American Indian descent
 - h. a child of partial American Indian descent
 - i. a child of full Caucasian descent
 - j. a child of partial Caucasian descent
 - k. a child of a race/ethnicity not listed above

IV. Reporting Requirements

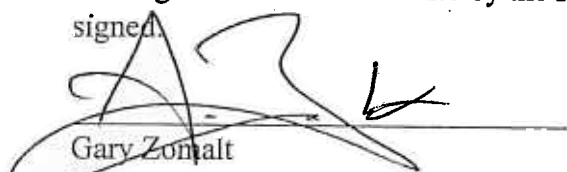
CFS shall submit sufficient documentation to OCR that it has completed all actions set forth in Section III of this Agreement. This includes copies of all policies, procedures, forms, signs, class curricula, orientation materials, training materials (including agendas and sign-in sheets), and other documents developed or amended pursuant to Section III. CFS's documentation shall include a summary of the steps taken to implement this plan and the date each step was taken. Specific timeframes 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. - I.
- B. Within six months of signing this Agreement, CFS shall submit to OCR documentation that it has completed all actions specified at Section III.J. - M., including the first of the semiannual statistical reports required by Section III.M.

The timeframes 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 that the issues in this review are resolved, and no further action will be taken against CFS in connection with this review.

V. Signatures

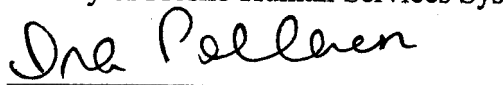
This agreement is entered into by the following parties and is effective when both parties have signed.



Gary Zonalt
Director

7/1/02
Date

Children and Family Services
County of Fresno Human Services System



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

7/16/02
Date