

**JAFCO provides services and programs to children and families that are free from discrimination based on Race, Color, National Origin, Disability, Gender and Religion.**

**For more information please download this document on ensuring the best interest of children in accordance with the law and OCR.**



**...giving every child a place to belong**

# ENSURING THE BEST INTERESTS OF CHILDREN

Through Compliance with  
The Multiethnic Placement Act of 1994, as amended,

and

Title VI of the Civil Rights Act of 1964



U.S. Department of Health and Human Services  
Administration for Children and Families  
Office for Civil Rights

**Ensuring the “*Best Interests of Children*”  
Is the Fundamental Goal and Hallmark of  
Good Social Work Practice  
in Adoptions and Foster Care**



**The Shared Vision:**

**Ensuring the safety, permanency and  
well-being of every child in foster care**

# Social Workers

## Face Significant Challenges

### in Achieving the “Best Interests” Goal

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Updated data from January, 2008 reveals that:

- There are 510,000 children are in foster care.
- 129,000 of these children are waiting to be adopted.
- Children wait to be adopted 39.4 months, on average.

# To address some of these factors, in 1994, Congress Passed the Multi-Ethnic Placement Act (MEPA)

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## ■ Purposes:

- Decrease the length of time that children wait to be adopted
- Facilitate identification and recruitment of families that can meet the child's needs
- Prevent discrimination on the basis of race, color, or national origin (RCNO)

# MEPA in Historical Perspective

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- MEPA supplemented existing legal standards prohibiting discrimination on the basis of RCNO:
  - The Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution
  - Title VI of the Civil Rights Act of 1964 (Title VI)
  
- MEPA contains two central provisions:
  - Prohibits use of a child's or prospective parent's RCNO to delay or deny the child's placement
  - Requires States to provide for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of the children in care for whom homes are needed.

# MEPA in Historical Perspective

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- MEPA was amended in 1996 to affirm and strengthen the prohibition against discrimination, by:
  - Removing potentially misleading language regarding the consideration of RCNO
  - Strengthening compliance and enforcement procedures by, among other things, requiring assessment of a penalty against a State agency or entity that violates MEPA

# The Application of MEPA, as amended, and Title VI in Adoptions and Foster Care

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- Implementation paints a varied picture:
  - Misinterpretation of and confusion about the law
  - Avoidance of any consideration of RCNO for fear of violating the law
  - Consideration of RCNO in violation of the law



# Correctly Applied, These Laws Promote the Best Interests of Children by Helping to Ensure the Appropriate Consideration of RCNO

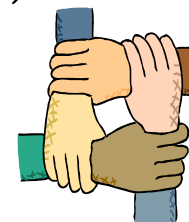
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- Today, We Will Learn...
  - When RCNO may not be considered
  - When RCNO may be considered
  - When RCNO must be considered

# Agenda for Discussion

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- Federal laws that apply to the consideration of RCNO and how they interrelate
  - Title VI
  - MEPA diligent recruitment/title IV-B of the Social Security Act (SSA)
  - MEPA, as amended/title IV-E of the SSA
- Practical guidance on how child welfare agencies and social workers can comply with MEPA in their programs and daily practice
- Respective roles of the Administration for Children and Families (ACF) and the Office for Civil Rights (OCR) in the Department of Health and Human Services



# Agenda for Discussion, continued

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- Enforcement of Title VI and MEPA
- Compliance Tips
- Resources
- Legal, Regulatory, and Policy Authority



# A Couple of Caveats

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- Throughout the training, we will present various examples of actions that could violate MEPA and Title VI. These examples are illustrative of issues, and do not constitute all of the actions that could violate these laws.
- Title VI and MEPA apply to consideration of RCNO in **all** placements,
- (e.g., same RCNO placements; different RCNO placements). Throughout the training, this principle applies, irrespective of whether an example discussed is a same-RCNO placement or different-RCNO placement.

# Federal Laws That Apply to the Consideration of RCNO in Adoptions and Foster Care

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- The Laws:

- Title VI

- MEPA, diligent recruitment: title IV-B of the SSA

- MEPA, as amended: title IV-E of the SSA

# Entities to Which These Laws Apply

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- Title VI: Among others, any agency or entity, including State and county child welfare agencies and private agencies, that receives any Federal financial assistance and is involved in adoption or foster care placements.
- MEPA: Any State child welfare agency, or entity within the State that receives title IV-B or IV-E funds (i.e., contractors), and is involved in adoption or foster care placements or child welfare agency contracts. The State is subject to the title IV-B diligent recruitment provision.
- MEPA established that a violation of MEPA also is a violation of Title VI.
- Other laws may apply in other contexts, e.g., international adoptions, Indian children who are subject to the Indian Child Welfare Act.

# Race, Color, and National Origin (RCNO)

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- **Race** - e.g., Black, Caucasian, or Asian
- **Color** – e.g., skin tone or complexion
- **National Origin** – a child’s or parent’s ancestry, e.g., Hispanic, Ukrainian, Filipino
- Discrimination on the basis of ethnicity is encompassed by Title VI’s prohibitions against national origin discrimination.
- MEPA and Title VI do not address discrimination on the basis of religion, age, gender, culture or any other characteristic.
- Culture cannot be used as a proxy for RCNO.

# Title VI of the Civil Rights Act of 1964

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Title VI prohibits discrimination on the basis of RCNO by recipients of Federal financial assistance. Below are examples of discrimination prohibited by Title VI:

- Denying a service or benefit based on RCNO
- Providing services in a different manner based on RCNO
- Restricting the enjoyment of an advantage based on RCNO
- Treating an individual differently on the basis of RCNO in determining whether he or she satisfies a requirement to be provided a service or benefit
- Affording an opportunity to participate in a program that is different based on RCNO
- Using methods or criteria that have the effect of discriminating on the basis of RCNO



# Title VI, Strict Scrutiny, and Child Welfare

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- Consideration of RCNO under Title VI is assessed under a strict scrutiny standard.
- Under the strict scrutiny standard, consideration of RCNO must be narrowly tailored (i.e., justified as necessary) to achieve a compelling interest.
- Advancing the best interests of a child is the only compelling interest that satisfies the strict scrutiny standard.
- Consideration of RCNO must be on an individualized basis.

# Title VI and Strict Scrutiny In Brief

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- A child welfare agency may consider RCNO only if it has made an individualized determination that the facts and circumstances of the specific case require the consideration of RCNO in order to advance the best interests of the specific child. Any placement policy or action that takes RCNO into account is subject to strict scrutiny.

# Title IV-B and Title IV-E of the Social Security Act

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- Two complementary State plan provisions address issues related to RCNO:
  - Title IV-B addresses prospective parent recruitment
  - Title IV-E addresses consideration of RCNO during the placement process

# Title IV-B State Plan Diligent Recruitment

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- As part of its title IV-B State plan, each State must provide for the **diligent recruitment** of prospective foster/adoptive parents who reflect the race and ethnicity of children currently in the State foster care system for whom homes are needed.

# Title IV-E State Plan

## MEPA

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- A State, or any other entity in a State that is involved in adoption/foster care placements and receives title IV-E funds from the Federal government, may not:
  - **Deny an individual the opportunity** to foster or adopt on the basis of the child's or the prospective parent's RCNO or
  - **Delay or deny a child's placement** into foster care or adoption on the basis of the child's or the prospective parent's RCNO.

# PRACTICE CONSIDERATIONS

## Preview

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- Diligent recruitment
- Denying opportunities to foster or adopt based on RCNO; delaying or denying placements based on RCNO
- Individualized assessment
- Culture and cultural competence
- Assessing and preparing prospective parents
- Requests of parents
- Concerns about prospective parents
- Family and community ties
- Photo listings

# Diligent Recruitment

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- The State **may**:
  - Conduct recruitment activities for the purpose of recruiting parents who reflect the racial and ethnic diversity of the children in care who need homes; and
  - Develop its own diligent recruitment plan or utilize the services of a private recruitment agency that specializes in understanding a specific community or identifying families for specific groups of children.
- The diligent recruitment provision does not require an agency to recruit prospective parents for the purpose of increasing the number of transracial placements.

# Diligent Recruitment

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- In conducting diligent recruitment activities, the State:
  - **Must** allow prospective parents to participate in general recruitment activities irrespective of RCNO;
  - **Must accept** applications from prospective parents who are not from one of the communities on which the agency currently is focusing its efforts and must include them in general recruitment activities; and
  - **Must accept** applications from prospective parents who express interest in providing care to a child whose race or ethnicity does not match their own.



# Diligent Recruitment

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Components of a diligent recruitment plan may include:

- A description of the characteristics of the children for whom homes are needed
- Specific strategies to reach the individuals and communities that reflect the children in care who need homes
  - Diverse methods of disseminating general and child specific information
  - Strategies for ensuring that all prospective parents have access to the home study process; and
  - Strategies for training staff to work with diverse cultural/racial/economic communities and for dealing with linguistic barriers

# Denial of Opportunity

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- If an appropriate placement for a child exists, an agency **may not**:
  - Refuse to place a child with a prospective parent because the parent's RCNO is different than the child's RCNO
  - Fail to place a child with a prospective parent because the parent or the child is a specific RCNO
  - Remove a child from a prospective parent because the parent or child is a specific RCNO
  - Refuse to conduct a home-study because the parent or child is a specific RCNO

# Delay or Denial of Placement

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- If an agency has determined that an appropriate placement for a child exists, the agency **may not**:
  - Allow the child to remain in shelter care or another temporary placement, or require a holding period to find a particular RCNO foster care placement (impermissible delay)
  - Remove a child who is doing well in a pre-adoptive placement in order to place the child with a family of a particular RCNO (impermissible denial)
  - Switch a child from one foster placement to another in an effort to place the child into a particular RCNO placement (impermissible denial). Even if the agency reverses itself later and places the child with the original pre-adoptive family, the agency would have impermissibly denied and delayed the child's placement (impermissible denial and delay)

# Individually Assessing a Child's Needs

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- An agency has the **flexibility** to determine which factors it will consider when individually assessing a child as long as it does so in accordance with the law; HHS does not prescribe those factors.
- However, when it becomes apparent that the agency might need to consider RCNO, the agency:
  - **Must** individually assess a child to determine whether considering RCNO is in the best interests of the particular child in light of the child's unique circumstances.
  - **May not** rely or act upon generalizations about the child's needs, based on the child's membership in a particular RCNO group.
  - **May not** routinely consider RCNO during the individualized assessment.

# Individually Assessing a Child's Needs

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- Some factors that may be relevant to an individualized assessment include:
  - The child's unique or unusual history related to RCNO (e.g., traumatic experiences);
  - Any other factors that the case worker believes are relevant to the individualized assessment process based on the worker's knowledge and understanding of the child.

# Individually Assessing a Child's Needs

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- Some States have a law or policy that establishes an age at which a child or youth may/must consent to adoption.
- If your State has such a law or policy and an agency is placing a youth who meets that age and either requests or refuses a placement on the basis of RCNO, the agency may honor such a request without violating MEPA or Title VI.
- The agency should document its determination of whether the youth's request/refusal is in the youth's best interest.

# Individually Assessing a Child's Needs

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- If the State does not have such a law or policy, or if a child does not meet a State's age to consent:
  - The child's request may not determine the placement, and the agency should be very cautious in considering such a preference; and
  - The agency needs to look to all of the relevant circumstances as part of the individualized review to determine whether consideration of RCNO is appropriate.

# Individually Assessing a Child's Needs

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- MEPA and Title VI do not require agencies to seek or use outside professionals to conduct individualized assessments; however, securing a professional consultation from an independent psychologist, psychiatrist or social worker may provide further insight into whether the agency should consider RCNO when making a child's placement decision.
- In most cases, a child's best interests can be served without consideration of RCNO. Consequently, it would be rare that an individualized assessment would reveal that the agency needs to consider RCNO.



# Individually Assessing a Child's Needs

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- If an individualized assessment reveals that it is necessary to consider RCNO in order to advance the best interests of a particular child, the agency may do so, but only to the extent necessary to advance the best interests of the child.
- In applying this standard, consideration of RCNO should not predominate, unless the individualized assessment reveals that such consideration of RCNO is necessary to advance the child's best interests. The agency also would examine any other factors it deems relevant (e.g., age, membership in a sibling group, health, education, cognitive, or psychological needs, etc. ). The agency has the **flexibility** to determine how to weigh the factors.

# Individualized Assessment, RCNO and Distinguishing Between Placements

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- Unless the individualized assessment reveals the need to do so, the agency:
  - **May not** use RCNO to distinguish between two or more acceptable placements;
  - **May** identify differences between and among families who are equally well-suited to provide care to a child that do not involve consideration of RCNO

# Culture and Cultural Competence

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- MEPA and Title VI do not address the consideration of culture in placement decisions, and HHS does not define it.
- An agency may not use ‘culture’ to replace or serve as a proxy for routinely considering RCNO, which is prohibited.
- Some acceptable, non-discriminatory cultural issues to discuss with a family during a home study may include: holidays, ability to communicate, religion or food.

# Culture and Cultural Competence

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- An agency may not assess a family's or parent's ability to parent a child of a particular RCNO through the use of a cultural competence test.
- An agency should be cautious when assessing or considering a child's or family's "culture" on a home study form or elsewhere.

# Assessing Cultural Competence

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- An agency may not assess, or ask prospective parents to assess, whether they are competent to parent a child whose RCNO differs from that of the parents. Throughout a family's interaction with the agency, an agency may not ask or consider:
  - Why a family wants to parent across RCNO lines;
  - What a family knows about RCNOs different from its own;
  - Whether a family's activities reflect a knowledge of or appreciation for the RCNO of the child the family wishes to parent.

# Assessing Cultural Competence

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- An agency:
  - **May not** require prospective parents to take different or extra steps in order to parent a child who is in foster care on the basis of the parents' or the child's RCNO;
  - **May not** single out parents who want to parent across RCNO-lines or require them to learn about a different RCNO;
  - **May** provide information to parents that will help them care for their child, including information about hair care or other personal care issues.

# Assessing Prospective Parents

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- An agency may not create or allow a different child welfare process to which parents who wish to foster or adopt a child of a different RCNO are subject, e.g.:
  - A longer or more invasive home study process, e.g., examining issues for those who want to parent across RCNO lines that the agency does not examine for same-RCNO placements
  - Requests that are specific to families who plan to parent across RCNO lines, e.g., requiring parents to develop a trans-RCNO parenting plan
  - Requests that a prospective parent learn about a different RCNO in advance of parenting such a child, e.g., requiring a family to purchase or review specific material or interacting with individuals of a particular RCNO

# Preparing Prospective Parents

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- An agency may offer training to prospective parents about parenting a child of a different RCNO if:
  - It is offered to **all** parents, regardless of whether the parents plan to foster/adopt a child of a different RCNO; and
  - Participation in the training is not a precondition only for parents who want to pursue a trans-RCNO placement



# Preparing Prospective Parents

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- An agency may offer trans-RCNO parenting information to prospective parents **who request it** but the agency must ensure that:
  - Information is consistent with MEPA and Title VI;
  - Information is provided regardless of the prospective parent's or the child's RCNO;
  - A prospective parent is not pressured to receive such information, even if the parent expresses interest in parenting across RCNO lines; and
  - It is not used as an assessment or home study tool.

# Preparing Prospective Parents

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- An agency may offer trans-RCNO parenting information to prospective parents **at its own discretion** so long as:
  - The information is made available in the context of preparing a parent, and not assessing a parent's capacity to parent a child of a different RCNO;
  - Consideration of the information or related participation in services is not a precondition only for parents of a certain RCNO or who want to pursue a trans-RCNO adoption.
- In such instances, an agency may prepare a prospective parent to foster or adopt a child of a different RCNO by:
  - Asking parents to describe their questions or concerns;
  - Connecting parents with helpful resources; and
  - Offering post-placement services or support for parents who would like such services (e.g., support or social groups).

# Preparing Prospective Parents

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## ■ An agency **may**:

- Tell parents whether the children in care do/do not have the characteristics that the parents are seeking (e.g., age of available children; RCNO of available children; special needs of available children).
- Ask prospective parents whether they will consider providing a home for a child(ren) whose characteristics reflect the children for whom homes are needed.
- Discuss with parents the challenges that may arise when parenting a child whose characteristics differ from the characteristics that the parents originally sought.

# Preparing Prospective Parents

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- An agency **may not**:
  - Discourage parents from pursuing a trans-RCNO placement; or
  - Require parents to participate in any training related to RCNO unless such training is required of all parents.

# Parental Requests

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- Prospective parents may make requests about any characteristics they want in a child, including RCNO.
- Agencies are not required to place a child of a particular RCNO with a parent who has indicated that the parent does not want to parent a child of that RCNO.
- Agencies must be as flexible with prospective parents' requests related to RCNO of a child for whom they will provide a home as it is with parents' requests related to other characteristics of a child. If an agency presents children whose characteristics do not match the parent's requests, the agency must be similarly flexible with presenting children whose RCNO does not match the parent's request.

# Parental Requests

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- For both voluntary and involuntary removals:
  - An agency **may not** consider or honor the request of parents or legal guardians to place their child with foster or adoptive parents of a specific RCNO.
  - This applies to birth parents who are considering placing an infant for adoption.

# Concerns about Prospective Parents

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- MEPA and Title VI do not require an agency to make a placement where a prospective parent's comments or beliefs make clear that placing children of a specific RCNO with the prospective parent is not in the best interests of those children.

# Concerns about Prospective Parents

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- Where a family expresses prejudice about people of a certain RCNO, but still wishes to foster or adopt children of that RCNO:
  - An agency should delve further into the issues.
  - If the agency believes that the parent should not parent any children of a certain RCNO, the agency should document the reasons for that belief or for its resulting placement decision.
  - A decision that is necessary to achieve the child's best interest, including a decision to not place a child of a certain RCNO with a family, does not violate MEPA or Title VI.



# Family and Community Ties

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- The Child and Family Services Review (CFSR) assesses whether a State is making concerted efforts to maintain a child's important connections, which may include ties to his or her community, neighborhood and school. ACF recognizes that in many cases it is a good idea to help a child preserve those ties, especially when the child is expected to be reunified with his or her parents or a family member in the same neighborhood.
- Making concerted efforts to maintain a child's important connections does not violate MEPA or Title VI.

# Photo Listings

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## ■ An agency:

- **May** identify or document the RCNO of a child who is featured on an adoption website, such as Adopt US Kids
- **May** design and administer adoption listing websites that allow prospective adoptive parents to search for child profiles based on a child's RCNO
- **Must** treat RCNO in the same manner it treats other characteristics, including age, gender, membership in a sibling group, e.g., if an agency identifies a child's RCNO on its website, it must identify other characteristics, or if an agency allows prospective parents to search for children by RCNO, it must allow prospective parents to search by other characteristics as well.

# Respective Roles of the Office for Civil Rights (OCR) and the Administration for Children and Families (ACF)

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- OCR and ACF work in concert to help States ensure that their child welfare laws, policies and practices do not result in discrimination against children or families on the basis of RCNO.
- OCR and ACF administer different statutes and have different, complementary responsibilities.

# OCR

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## ■ OCR:

- Enforces Title VI and the civil rights provisions of MEPA
- Investigates complaints and conducts compliance reviews to ensure compliance with the law, e.g., interviews agency staff and prospective or current foster or adoptive parents and examines data systems and case records
- Makes determinations of compliance or noncompliance and attempts to resolve noncompliance through voluntary means
- Where compliance can not be secured through voluntary means, may initiate proceedings to terminate Federal financial assistance or refer a case to the Department of Justice
- Provides technical assistance to help ensure voluntary compliance with the law

# ACF

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## ■ ACF:

- Administers titles IV-B and IV-E of the SSA
- Ensures that States comply with their title IV-B and IV-E State plan requirements, including the diligent recruitment provision and MEPA
- Regional Offices respond to questions from States about diligent recruitment and MEPA
- Issues a penalty if it finds that a State has violated its MEPA State plan requirements
- Helps States ensure that their child welfare systems are free from discrimination on the basis of RCNO

# OCR and ACF

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- OCR and ACF can become involved in MEPA issues in several ways:
  - Child and Family Services Reviews
  - Internal State agency whistleblower
  - Prospective parent complaint
  - Civil rights compliance reviews
  - Private Litigation
  - Other ways

# OCR and ACF

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- OCR investigates potential violations. OCR and ACF share information related to allegations of violations and OCR's investigations.
- If OCR's investigation reveals a violation(s), OCR may submit a Letter of Findings (LOF) to the State that details OCR's findings.
- ACF reviews OCR's investigative file and its LOF to determine whether the State has violated:
  - Its title IV-E State plan requirements or
  - The MEPA implementing regulations or policy.
- OCR and ACF coordinate on technical assistance, training and enforcement actions.

# Enforcement of Title VI and MEPA

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- There are two types of MEPA and Title VI violations:
  - An **individual violation**, which is discrimination against a specific and identified prospective parent or a child in the State's care, and
  - A **systemic violation**, which is a noncompliant law, policy, practice or procedure (e.g., State law or policy that is inconsistent with MEPA; a home study form that requires or advises caseworkers to practice in a manner inconsistent with MEPA)



# Enforcement of Title VI and MEPA

## Examples of Violations

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OCR has found violations in cases where an agency:

- Manipulated a data system to broaden the search for children with respect to all characteristics but race, when children meeting parents' requested characteristics were not available
- Adopted and implemented a policy that required workers to ask more questions or more detailed questions to families that were interested in transracial adoption as part of the home study process;
- Matched a child to prospective parents based on complexion;
- Honored the request of a young child to be placed with a parent based on RCNO, even though the State law age to consent was significantly older than the age of the child.

# Enforcement of Title VI and MEPA: Examples of Violations

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- Required prospective adoptive parents to move to a neighborhood that the worker believed better reflected the child's RCNO;
- Required prospective adoptive parents to attend a house of worship that had a different RCNO composition than the house of worship the family attended in order to adopt a child;
- Required prospective adoptive parents to subscribe to periodicals that workers believed reflected the child's RCNO;
- Generally subjected parents who were interested in transracial adoption to higher degrees of scrutiny.

# Enforcement of Title VI and MEPA

## Individual Violations

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- If ACF and OCR find that a State has discriminated against an individual, ACF and OCR will require the State to enter into a Corrective Action and Resolution Plan (CARP)
- If ACF finds that a State has committed an individual MEPA State plan violation, ACF will assess a penalty against the State's:
  - Title IV-E foster care maintenance and adoption assistance funds
  - Administrative costs funds
  - Training funds
  - Chafee Foster Care Independent Living allotment
- A private agency that violates MEPA must return to the Federal government all title IV-E funds that it has received for the quarter in which it was notified of the violation.

# Enforcement of Title VI and MEPA

## Systemic Violations

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- If ACF and OCR find that a State has maintained laws, policies, practices or procedures that do not comply with its title IV-E State plan or Title VI, ACF and OCR will require the State to enter into a CARP that is designed to remedy the violations.
- Elements of the CARP might include notifying past prospective parent applicants of the violations; training agency and contracting staff; providing regular data and reports to ACF and OCR; and revising its non-compliant laws and policies.

# Enforcement of Title VI and MEPA

## Appeals

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- A State may appeal ACF's finding of State plan violations and penalties, and OCR's finding of civil rights violations to the Departmental Appeals Board (DAB).
- If a State disagrees with the DAB's decision, it may appeal to the U.S. District Court and avail itself of the full Federal appellate process.

# Enforcement of Title VI and MEPA

## Responsibility for Compliance

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- Some States have county-administered systems in which the States delegate responsibility to the counties to administer the State's title IV-B/IV-E plan.
- Under title IV-E, a State will be held responsible for county violations of State plan requirements. Under Title VI, counties are directly responsible for their violations of Title VI.
- States will be required to take steps to ensure compliance by county agencies that violate MEPA or Title VI.
- If a State violates MEPA or Title VI, the State will be responsible for ensuring that it successfully completes all corrective actions that OCR and ACF require.

# Compliance Tips

## Document, Document, Document

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- ACF and OCR will examine the facts of each case where a MEPA/Title VI violation may have occurred.
- Because each case is determined based on the specific facts and circumstance of each allegation, ACF and OCR cannot provide a list of documents that will insulate a State agency against the finding of a MEPA/Title VI violation.

# Compliance Tips

## Document, Document, Document

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- If the agency decides to consider RCNO when making a placement decision, the agency may want to consider creating a record of documents that relate to:
  - Who was involved in making the decision to consider RCNO, including any supervisors involved in making the decision;
  - The agency's process for deciding to consider RCNO (e.g, whether the agency conducted the individualized assessment or sought the input of an outside professional)



# Compliance Tips

## Document, Document, Document (Con't)

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- Whether the agency advised outside professionals that Federal law prohibits the routine consideration of RCNO
- Whether the outside professional interviewed the child and/or reviewed the case file
- The results of the individualized assessment and the rationale for the conclusion or recommendation
- How the decision to consider RCNO was narrowly tailored to advance the child's best interests
- Any documents that reflect the details of the selection or placement committee (e.g., who was present; which families were presented; discussion about families; why a family was/was not selected for a particular child)

# Compliance Tips

## Document, Document, Document

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- When the agency declines to place a child with prospective parents and the reason relates to RCNO, (e.g., the parents have made comments that cause concern), describe in the case file, in as much detail as possible, the RCNO-related reasons that makes the prospective parents an unsuitable placement option.

# Compliance Tips

## Agency Actions

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- Agency staff should work together to ensure compliance with MEPA and Title VI. For example, the agency may want to consider:
  - Developing a peer-review process in circumstances in which a worker thinks it is necessary to consider RCNO as part of the placement process.
  - Developing a supervisory chain-of-command process for managers to review and advise on the issue.

# Compliance Tips

## Training Public Agency Staff

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- Other actions the State may take to facilitate compliance:
  - Train agency staff and contractors on MEPA and Title VI;
  - Consider providing MEPA and Title VI training to all new employees, and offer or require that staff take refresher courses on the law and policy; and
  - Ensure that all of the entities with which the State contracts know how to apply MEPA and Title VI to their daily practice.

# Resources and Technical Assistance

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- Contact your ACF or OCR Regional Office with any questions about how to implement MEPA and Title VI.
- Ask your ACF and OCR Regional Offices to review proposed training material or curricula before using it to ensure it complies with MEPA and Title VI.

# Resources and Technical Assistance

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- Keep current about information that ACF and OCR release about MEPA and Title VI on their websites.
- Remember that ACF and OCR want to partner with your State to ensure that your child welfare system
  - Is fair to the children and families who are involved with the child welfare system and
  - Is free from discrimination based on RCNO. We are here to help you prevent violations and help you correct them should they occur.

# Legal, Regulatory and Policy Authority

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- Section 422(b)(7) of the Social Security Act (Title IV-B)
- Section 471(a)(18) of the Social Security Act (Title IV-E)
- Section 1808(c) of The Small Business Job Protection Act of 1996, 42 U.S.C. § 1996b (Amendments to 1994 MEPA)
- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*
- 45 C.F.R. § 1355.38
- HHS-ACF *Child Welfare Policy Manual*  
[http://www.acf.hhs.gov/j2ee/programs/cb/laws\\_policies/laws/cwpm/index.jsp](http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/index.jsp)
- HHS-ACF Policy: ACYF-CB-PI-95-23 (10/22/95)