

5101:2-33-03

Procedure for complaints of alleged discriminatory acts, policies or practices in the foster care or adoption process that involve race, color or national origin.

(A) Each public children services agency (PCSA), private child placing agency (PCPA), and private noncustodial agency (PNA) shall provide a written notice of the procedure for any complaints of discrimination in the foster care or adoption process that involve race, color or national origin (RCNO) to all individuals inquiring about or applying to be a foster caregiver or adoptive parent. Such notice shall be provided within seven days of the individual's first contact with the agency.

(B) Any individual may file a complaint alleging a discriminatory act, policy or practice involving RCNO in the foster care or adoption process of a PCSA, PCPA, PNA or the Ohio department of job and family services (ODJFS).

Any person, including but not limited to, an employee or former employee of a PCSA, PCPA, or PNA or a member of a family which has sought to become a foster caregiver or adoptive parent, may also file a complaint alleging that he or she was intimidated, threatened, coerced, discriminated against or otherwise retaliated against in some way by a PCSA, PCPA, PNA or by ODJFS because he or she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing in connection with an allegation that a PCSA, PCPA, PNA or ODJFS engaged in discriminatory acts, policies, or practices as it applies in the foster care or adoption process.

(C) The individual filing a complaint shall use the JFS 02333 "Discrimination Complaint Form". The complaint shall be filed within two years from the date of the occurrence of the alleged discriminatory act; or two years from the date upon which the complainant learned or should have known of a discriminatory act, policy or practice. The complaint may be filed with:

(1) Any PCSA, PCPA or PNA; or,

(2) The ODJFS.

(D) When any complaint alleging discrimination involving RCNO in the foster care or adoption process is received by:

(1) A PCSA, PCPA or PNA, the agency shall forward the complaint to ODJFS within three working days of date of receipt of the complaint.

(2) ODJFS, the department shall notify the PCSA, PCPA, PNA that is the subject of the complaint within three working days of the receipt of the complaint.

(E) ODJFS shall conduct an investigation of the complaint. The PCSA, PCPA or PNA that is the subject of the complaint shall not initiate, conduct, or run concurrent investigations surrounding the complaint or take any further action regarding the complainant or the subject of the complaint until the issuance of the final

investigation report by ODJFS, unless approved by ODJFS.

(F) The PCSA, PCPA or PNA that is the subject of the complaint shall cooperate fully with ODJFS during the course of the investigation and shall submit any information requested by ODJFS not later than fourteen days from the date of the request, unless otherwise agreed upon.

(G) ODJFS shall conduct an investigation that shall include, but is not limited to:

(1) Face-to-face interviews with the complainant, the respondent and all relevant witnesses.

(2) Issuance of a final investigation report to the complainant and the PCSA, PCPA or PNA that is the subject of the complaint. The report shall include the allegations, background information, analysis, determination and recommendations and shall be issued within ninety days of the receipt of the initial complaint.

If unanticipated circumstances require additional time to complete the investigation or to issue the final report, ODJFS will notify the complainant and the PCSA, PCPA, or PNA that is the subject of the complaint of the need for additional time.

(H) Upon completion of the final investigation report, ODJFS shall determine if any action against a PCSA, PCPA or PNA is warranted. For noncompliance by a PCSA, ODJFS may take any action permitted under section 5101.24 of the Revised Code. For noncompliance by a PCPA or PNA, ODJFS may take action concerning the agency's certificate pursuant to Chapter 5101:2-5 of the Administrative Code.

(I) No person who has filed a complaint alleging a discriminatory act, policy or practice involving RCNO in the foster care or adoption process of a PCSA, PCPA or PNA or who has testified, assisted or participated in any manner in the investigation of a complaint shall be intimidated, threatened, coerced, or retaliated against by any employee or contractor of the PCSA, PCPA, PNA or ODJFS.

(J) Nothing in this rule or in an agency's policy shall prohibit an individual from filing a complaint with the United States department of health and human services (HHS), office for civil rights (OCR) alleging discrimination that involves RCNO in the foster care or adoption process of a PCSA, PCPA, PNA or ODJFS.

(K) The requirements of rules 5101:2-33-04 and 5101:2-48-24 of the Administrative Code do not apply to complaints of discrimination in the foster care or adoption process that involve RCNO.

(L) Each PCSA, PCPA or PNA shall provide a written notice of the procedures for any complaints of discrimination in the foster care or adoption process that involve RCNO within thirty days of the effective date to all foster caregivers certified or in

the process of certification and to all individuals who have approved adoptive homestudies or who are participating in the adoptive homestudy process on the effective date of this rule.

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CERTIFIED ELECTRONICALLY

Certification

01/06/2005

Date

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