

TO BE RESCINDED

5101:2-48-13

Adoption placement requirements pursuant to the Multiethnic Placement Act.

- (A) The Multiethnic Placement Act, 42 U.S.C.A. 1996(B), as amended by Section 1808 of the Small Business Job Protection Act of 1996 (MEPA) is designed to decrease the time children wait for foster care and adoption placement, prevent discrimination in the placement of children, and aid in the identification and recruitment of foster and adoptive families who can meet each child's needs. No public children services agency (PCSA), private child placing agency (PCPA), or private noncustodial agency (PNA) shall deny any person the opportunity to become an adoptive parent on the basis of race, color or national origin of that person, or of the child involved; nor delay or deny the placement of a child for adoption on the basis of race, color or national origin of the adoptive parent or parents, or of the child involved.
- (B) MEPA does not supercede the provisions of the Indian Child Welfare Act of 1978, 25 U.S.C.A.1901 et seq.
- (C) The JFS 01689 "Documentation of the Placement Decision-Making Process" must be completed pursuant to rule 5101:2-48-16 of the Administrative Code.
- (D) The JFS 01668 "MEPA Bi-Annual Comprehensive Self-Assessment Report" shall be utilized pursuant to paragraph (H) of rule 5101:2-48-05 of the Administrative Code.
- (E) The following are general principles that shall be used in the implementation of MEPA:
- (1) A child's race, color or national origin cannot be routinely considered as a relevant factor in assessing a child's best interest. In each case, the only consideration shall be the child's individual needs and the ability of the prospective parent to meet those needs.
 - (2) Only the most compelling reasons may serve to justify consideration of race, color or national origin as part of a placement decision. Such reasons are likely to emerge only in unique and individual circumstances. In those exceptional circumstances when race, color or national origin may be taken into account in a placement decision, such consideration must be narrowly tailored to advance the child's best interest . Even when the facts of a particular case allow consideration related to race, color or national origin, this consideration should not be the sole determining factor.
- (F) No action or decision regarding the placement of a child may cause a delay or denial

in placement on the basis of the child's race, color or national origin or on the basis of the race, color or national origin of the prospective adoptive parent or parents subject only to the provisions of paragraph (E)(2) of this rule. The following are examples of acts prohibited under MEPA:

- (1) Using race, color or national origin to differentiate between otherwise acceptable adoptive placements, unless the procedures in paragraph (I) of this rule are followed.
- (2) Honoring the request of a birth parent(s) to place a child with a parent(s) of a specific race, color or national origin, unless the birth parent(s) identifies a relative or nonrelative by name and that person is found to meet all relevant state child welfare protection standards, unless the agency determines that the placement is not in the best interests of the child.
- (3) Requiring a prospective family to prepare or accept a transracial adoption plan.
- (4) Using "culture" or "ethnicity" as a proxy for race, color or national origin.
- (5) Delaying or denying placement of a child based upon the geographical location of the neighborhood of the prospective family whenever geography is being used as a proxy for the racial composition of the neighborhood, the demographics of the neighborhood, the presence or lack of presence of a significant number of persons of a particular race, color, or national origin in the neighborhood or any similar purpose.
- (6) Requiring extra scrutiny, additional training, or greater cultural awareness of individuals who are prospective parents of children of a different race, color or national origin than required of other prospective parents.
- (7) Relying upon general or stereotypical assumptions about the needs of children of a particular race, color or national origin.
- (8) Relying upon general or stereotypical assumptions about the ability of prospective adoptive parents of a particular race, color or national origin to care for or nurture the sense of identity of a child of another race, color or national origin.
- (9) "Steering" prospective parents away from parenting a child of another race, color, or national origin. "Steering" is any activity that attempts to discourage prospective adoptive parents from parenting a child of a particular race, color or national origin.

(G) The following actions by a PCSA, PCPA, or PNA are permitted under MEPA:

- (1) Asking prospective parents what race, color or national origin of child the prospective parents will accept.
- (2) Providing information and resources about adopting a child of another race, color or national origin to prospective adoptive parents who request such information and making known to all families that such information and resources are available.
- (3) Considering the request of a birth parent(s) to place the child with a relative or nonrelative identified by name.
- (4) Considering race, color or national origin as a possible factor in the placement decision when a child demonstrates, or the child's caseworker's assessment demonstrates that race, color or national origin may be a factor in the placement decision. When race, color or national origin is considered, the custodial agency shall complete the JFS 01688, "Individualized Child Assessment Form" pursuant to paragraph (G) of this rule.
- (5) Discussing the special cultural and physical needs of children of different races, ethnicities, and national origins as part of the training which is required of all parents who seek to become eligible to be adoptive parents.
- (6) Documenting, verbatim, comments made by a prospective adoptive family member reflecting a negative perspective regarding race, color or national origin of a child for whom they have expressed an interest in adopting after they have completed the cultural diversity training which is required for all prospective adoptive applicants. The matching committee may consider the information in determining if the placement is in the child's best interest.

(H)

- (1) Each PCSA and PCPA shall designate a person from within their agency to serve as that agency's MEPA monitor to review and monitor adoptive placement decisions when race, color or national origin is used as a factor in a child's placement decision. The MEPA monitor shall not be the child's caseworker or the caseworker's supervisor. The person who serves as an agency's civil rights coordinator may not serve as the MEPA monitor.
- (2) A PNA is not required to designate a MEPA monitor but shall refer all cases in

which race, color or national origin may be a factor in the placement decision to the child's custodial agency for assessment pursuant to paragraphs (I) and (J) of this rule.

(I) At the time a decision is made that race, color or national origin may be a factor in the placement decision, the custodial agency shall initiate and subsequently complete the JFS 01688, "Individualized Child Assessment Form" using the following procedures:

- (1) The child's caseworker shall recommend that the child be referred for an individual child assessment. Within five working days of the decision pursuant to paragraph (I) of this rule the caseworker shall complete section I of the JFS 01688 and submit the JFS 01688 and all relevant medical or psychological evaluations, school records, police reports or other material that supports consideration of race, color or national origin as a factor to be considered in the placement decision to the caseworker's supervisor and the agency's MEPA monitor for review and approval.
- (2) If both the supervisor and the MEPA monitor determine that race, color or national origin may be a factor in placing the child, the child shall be referred within an additional ten working days pursuant to paragraph (I)(1) of this rule for an individual child assessment and recommendation on this issue to a licensed psychiatrist, licensed clinical psychologist, licensed independent social worker or licensed professional clinical counselor who shall not be an employee of the custodial agency. At the time of the referral, the agency shall send to the licensed professional the original JFS 01688 and all relevant documentation that supports the consideration of race, color or national origin as a factor in the placement decision. The licensed professional shall be requested in writing by the supervisor to complete and sign section II of the original JFS 01688 and return it within sixty days to the agency with a copy of the requested assessment attached. The licensed professional shall be requested to make a recommendation whether race, color or national origin should be used as a factor in making the placement decision.
- (3) Within ten days of receipt of the JFS 01688 that has been completed pursuant to paragraph (I)(2) of this rule and the licensed professional's assessment and recommendation, the MEPA monitor shall meet with caseworker and the supervisor to discuss the assessment and the recommendation. The MEPA monitor, the caseworker and the caseworker's supervisor shall indicate their concurrence or disagreement with the recommendation of the licensed professional in section III of the JFS 01688. If the MEPA monitor, the caseworker or the caseworker's supervisor disagree with the licensed professional's recommendation, they shall prepare and attach to the JFS

01688 a statement of their rationale for disagreeing with the assessment and recommendation of the licensed professional.

- (4) A copy of each completed JFS 01688 and the assessment and recommendation of the licensed professional shall be sent to the ODJFS bureau of family services. If the placement decision is not in accordance with the licensed professional's recommendation, all statements of disagreement shall also be sent to the ODJFS bureau of family services along with the JFS 01688 and the licensed professional's assessment and recommendation.
- (J) The custodial agency shall maintain in the child's case file the completed original JFS 01688 and the recommendation, any statement of disagreement with the assessment and recommendation and all other relevant medical or psychological evaluations, school records, police reports or other materials that support and document consideration of race, color or national origin as a factor to be taken into account in the placement of the child.

Replaces: 5101:2-48-13
Effective: 02/01/2005
R.C. 119.032 review dates: 10/29/2004

CERTIFIED ELECTRONICALLY

Certification

01/06/2005

Date

Promulgated Under: 119.03
Statutory Authority: 3107.032, 5103.03, 5153.16
Rule Amplifies: 3107.031, 5153.16
Prior Effective Dates: 9/1/00, 5/1/02, 9/1/2003