

**Cuyahoga County Division of Children and Family Services  
(CCDCFS)  
Policy Statement**

**Policy Chapter:** Substitute Care  
**Policy Number:** 6.01.09  
**Policy Name:** Non-Discrimination in the Placement of Children

**Original Effective Date:** 02/01/2005  
**Revision Date(s):** 09/01/2014, 07/17/2006  
**Current Revision Date:** 12/01/2017  
**Approved By:** Cynthia G. Weiskittel

**PURPOSE:** To ensure that all staff act in a non-discriminatory manner and meet the requirements of The Multi-Ethnic Placement Act (MEPA) and other laws prohibiting the consideration of race, color or national origin when CCDCFS is involved with a foster care or adoptive placement.

**SCOPE:** This policy amplifies The Multi-Ethnic Placement Act (MEPA), some of which is codified at 42 U.S.C.A. 1996b, as well as the rules and regulations of the Ohio Department of Jobs and Family Services (ODJFS). This policy applies to all CCDCFS staff. In addition, all agencies providing foster care and/or adoption services to children in the custody of CCDCFS shall comply fully with all lawful requirements. This policy shall apply to all placements made involving children in the custody of CCDCFS.

**I. STATEMENT OF POLICY:**

**A. Non-Discrimination: Foster Care Program**

CCDCFS staff shall not deny any person the opportunity to become a foster caregiver on the basis of race, color or national origin of that person, or of the child involved; nor shall CCDCFS delay or deny the placement of a child into foster care on the basis of race, color or national origin of the foster caregiver or of the child involved.

**B. Non-Discrimination: Adoption Program**

CCDCFS staff shall not 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 shall CCDCFS delay or deny the placement of a child for adoption on the basis of race, color or national origin of the adoptive parent, or of the child involved.

**C.** CCDCFS staff may not routinely consider race, color or national origin as a factor in assessing the needs or best interests of children. In each case, the only consideration shall be the child's individual needs and the ability of the prospective foster caregiver, or the prospective adoptive parent, to meet those needs. Only the most compelling reasons may serve to justify the consideration

of race, color or national origin as part of a placement decision. Such reasons emerge only in the unique and individual circumstances of each child and each prospective foster caregiver or adoptive parent. In those exceptional circumstances when race, color or national origin need to be taken into account in a placement decision, such consideration must be narrowly tailored to advance the child's best interests. Even when the facts of a particular case allow consideration related to race, color or national origin, this consideration shall not be the sole determining factor in the placement decision.

- D. CCDCFS shall not require a Child Protection Specialist to justify a proposed placement for the reason that the race, color or national origin of the child is different from that of the family whom the worker is proposing as the child's foster caregiver or adoptive parent.
- E. The Multi-Ethnic Placement Act of 1994 as amended by Section 1808 of the Small Business Job Protection Act of 1996, 42 U.S.C. 622(b)(9), 671(a)(18), 674(d) and 1996(b) (hereinafter "MEPA") and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, as they apply to the foster care process (hereinafter "Title VI"), do not supercede the provisions of the Indian Child Welfare Act of 1978, 25 U.S.C.A. 1901 et seq.

## **II. PROCEDURES FOR CONSIDERING RACE, COLOR OR NATIONAL ORIGIN IN THOSE RARE, EXCEPTIONAL CIRCUMSTANCES**

Considering race, color, or national origin as a possible factor in the placement decision may be warranted when a child (usually a teen) demonstrates, or the child's caseworker's assessment demonstrates that race, color, or national origin may be a factor in the placement decision. This type of situation may arise when medical or psychological evaluations, school records, or other material documented in the file, including statements made by the child to a caseworker, indicate that there may be **compelling** reasons to consider needs the child may have regarding race, color, or national origin in the placement process.

**Example:** The consideration of race, color or national origin as a relevant factor is quite unusual. An example MAY be when a child (usually a teen) initiates a verbal or written self-disclosure that s/he is adamant about not living with a family of a particular race, color or national origin. The worker may believe that placement in such a home will lead to a disruption and therefore not in the child's best interest. In such situations, this policy must be followed.

In such rare, exceptional situations, the following procedures must be followed.

- A. A caseworker should seek input from his/her direct Supervisor. However, the concurrence of his/her Supervisor within that particular chain of command (or another available Supervisor, in an emergency) is **not** required prior to proceeding with a request for consideration of race, color or national origin.

- B. The caseworker and supervisor must discuss the factual situation with a Senior Supervisor and a MEPA Monitor. 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 should be provided.
- C. If a social worker cannot obtain the concurrence of a Senior Supervisor and MEPA Monitor, as required, then consideration of race, color or national origin may not occur and such should be noted in the case record.
- D. No matter the decision, the caseworker shall complete Section I of the ODJFS 01688 form. The completed form shall be filed in the case record as well as submitted to the MEPA Monitor.
- E. If concurrence of a Senior Supervisor and MEPA Monitor is obtained, notification should be made to the appropriate Deputy Director. Based upon the area of CCDCFS from which the factual scenario arose, a MEPA Monitor will be assigned.
- F. If both the Senior Supervisor and the MEPA Monitor determine that the documented material contained in the case file indicates that there may be compelling reasons to consider needs the child may have regarding race, color or national origin in the placement process, the child shall be referred to a professional, as described in this rule, within an additional ten days for an individual child assessment as indicated in this rule.
- G. During this process, the MEPA Monitor will approve a placement for the child. See Section IV of this policy.
- H. At the time of the referral, the agency shall send the licensed professional a correspondence requesting a MEPA evaluation, the original JFS 01688 and all relevant medical or psychological evaluations, school records, or other material documented in the file which may assist the professional in assessing this situation.
- I. The correspondence to the professional shall request completion and the signature on Section II of the original JFS 01688. The completed JFS 01688 should be returned within sixty days to CCDCFS.
- J. The licensed professional shall be requested to determine whether the child has needs involving race, color or national origin or any other needs of a psychological or behavioral nature and, if so, to specify what those needs are and how these needs may impact a potential foster placement.
- K. No licensed professional may complete an assessment pursuant to paragraph (G) of this rule until CCDCFS has provided the licensed professional with the JFS 01607 "MEPA Educational Materials." The licensed professional conducting the assessment shall not be employed by the custodial agency.
- L. CCDCFS shall obtain the professional's signature on the JFS 01608 "Licensed Professional's Statement" acknowledging receipt of the educational material and the opportunity to obtain technical assistance regarding the material. A copy of the signed JFS 01608 shall be provided to ODJFS within ten days of receipt by the CCDCFS.

- M. The JFS 01688 and the supporting materials shall be considered as part of the placement decision process. Each completed JFS 01688 shall remain effective for twelve months from the date of the final decision as documented on the JFS 01688.
- N. CCDCFS shall maintain in the child's case file the completed original JFS 01688 and all medical or psychological evaluations, school records, or other material in the file.
- O. For each child who has had a referral for an assessment regarding needs the child may have regarding race, color or national origin, CCDCFS shall complete the JFS 01688 documenting the placement decision-making process and final placement decision and submit it to ODJFS within ten days of the date the agency completed the JFS 01688.
- P. If the MEPA Monitor **denies** the request, the child shall be placed based on his/her best interests excluding race, color or national origin. There is no appeal to the decision of the MEPA Monitor, and it will serve as the final decision. Only the MEPA Monitor can overrule the recommendation of the Licensed Mental Health Professional, and the decision will be final with no appeal process.
- Q. If a worker disagrees with the decision, the worker may compose a written correspondence and provide it to the MEPA Monitor within one business day of the decision. This correspondence will be part of the file.
- R. The MEPA Monitor shall be responsible for forwarding a copy of each completed JFS 01688 and the assessment and recommendation of the licensed professional 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.
- S. The Senior Supervisor must review SACWIS to make sure that the race, color or national origin checkbox has been inputted.

### **III. PERMISSIBLE/NON-PERMISSIBLE ACTIVITIES**

ODJFS has provided examples of permissible and non-permissible activities under the law.

#### **A. PERMISSIBLE ACTIVITIES: FOSTER CARE**

The following activities ARE PERMITTED as they apply to the foster care process.

1. Asking about and honoring any initial or subsequent choices made by prospective foster caregivers regarding what race, color or national origin of child the prospective foster caregivers will accept.

2. Providing information and resources about fostering a child of another race, color or national origin to prospective foster caregivers who request such information and making known to all families that such information and resources are available.
3. Considering the request of a birth(s) to place the child with a relative or non-relative identified by name.
4. Considering the race, color or national origin as a possible factor in the placement decision when compelling reasons serve to justify that the race, color or national origin need to be a factor in the placement decision pursuant the requirements of this policy. Even when the facts of a particular case allow consideration related to the race, color or national origin, this consideration shall not be the sole determining factor in the placement decision.
5. Promoting cultural awareness, including awareness of cultural and physical needs that may arise in the care of children of different races, ethnicities and national origins as part of the training which is required of all applicants who seek to become foster caregivers.
6. Documenting verbal comments, verbatim, or describing in detail any other indication made by a prospective foster caregiver family member living in the household or any other person living in the household reflecting a negative perspective regarding the race, color or national origin of a child for whom the prospective foster family have expressed an interest in fostering or adopting. The documentation shall indicate whether those comments were made before or after completion of the cultural diversity training which is required for all foster care applicants. Documentation shall be included in the family's homestudy, update, or an addendum to the homestudy or update prior to consideration of placement or a matching conference. For the purposes of this rule, a matching conference is the process of determining the most appropriate foster care family for the child based on the child's special needs. The matching committee may consider the information in determining if the placement is in the child's best interests. (See Section VI of this policy for the requirements to document verbatim comments).

## **B. PERMISSIBLE ACTIVITIES: ADOPTION**

The following activities ARE PERMITTED as they apply to the adoption process.

1. Asking about and honoring any initial or subsequent choices made by prospective adoptive parents regarding what race, color, or national origin of child the prospective adoptive parents will accept.
2. Honoring the decision of a child over twelve years of age to not consent

to an adoption when that decision has been approved by a court pursuant to section 3107.06 of the Ohio Revised Code.

3. 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.
4. Considering the request of a birth parent(s) to place the child with a relative or non-relative identified by name.
5. Considering the race, color or national origin of the child as a possible factor in the placement decision when compelling reasons serve to justify that the race, color or national origin need to be a factor in the placement decision pursuant to this rule. Even when the facts of a particular case allow consideration related to the race, color, or national origin, this consideration shall not be the sole determining factor in the placement decision.
6. Promoting cultural awareness, including awareness of cultural and physical needs that may arise in the care of children of different races, ethnicities, and national origins as part of the training which is required of all applicants who seek to become adoptive parents.
7. Documenting verbal comments, verbatim, or describing in detail any other indication made by a prospective adoptive family member living in the household or any other person living in the household reflecting a negative perspective regarding the race, color or national origin of a child for whom the prospective adoptive family have expressed an interest in adopting. The documentation shall indicate whether those comments were made before or after completion of the cultural diversity training which is required for all adoptive applicants. Documentation shall be included in the family's homestudy, update, or an addendum to the homestudy or update prior to consideration of placement or a matching conference. For the purposes of this rule, a matching conference is the process of determining the most appropriate adoptive family for the child based on the child's special needs. The matching committee may consider the information in determining if the placement is in the child's best interests. (See Section VI of this policy for the requirements to document verbatim comments).

### **C. NON-PERMISSIBLE ACTIVITIES: FOSTER CARE**

The following activities ARE PROHIBITED as they apply to the foster care process.

1. Using the race, color or national origin of a prospective foster caregiver to differentiate between foster care placements for a child, unless these procedures 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 non-relative by name and that person is found to meet all relevant state child protection standards and the agency determines that the placement is in the best interests of the child.
3. Requiring a prospective family to prepare or accept a trans-racial foster care 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 foster caregiver 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 foster caregivers of children of a different race, color or national origin required of other prospective foster caregivers.
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 foster caregivers 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 foster caregivers away from parenting a child of another race, color, or national origin. "Steering" is any activity that attempts to discourage prospective foster caregivers from parenting a child of a particular race, color or national origin.

#### **D. NON-PERMISSIBLE ACTIVITIES: ADOPTION**

The following activities ARE PROHIBITED as they apply to the adoption process.

1. Using the race, color or national origin of a prospective adoptive parent to differentiate between 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 prospective adoptive parent(s) of a specific race, color or national origin, unless the birth parent(s) identifies a relative or non-relative by name and that person is found to meet all relevant state child protection standards, provided that the agency determines that the placement is in the best interests of the child.
3. Requiring a prospective adoptive family to prepare or accept a trans-racial 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 adoptive family whenever geography is being used as a proxy for the racial or ethnic 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 adoptive parents of children of a different race, color or national origin than required of other prospective adoptive 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 adoptive 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.



**IV. PLACEMENT OF THE CHILD DURING COMPLETION OF PROCESS OUTLINED IN THIS POLICY**

If the MEPA Monitor, in his or her sole discretion, believes that race, color or national origin may possibly be considered as a factor in placing the child, the child should immediately be placed on a provisional basis in a home based on the child's best interests including race, color or national origin as one of the many factors taken into consideration in the placement decision.

**V. ADDITIONAL AGENCY PROCEDURES FOR SPECIFIC DEPARTMENTS**

**A. PLACEMENTS OF CHILDREN VIA THE PLACEMENT DEPARTMENT:**

1. For the placement of any child under any circumstances (for example, initial placement, placement disruptions, planned/unplanned moves), CCDCFS requires that every placement decision will be documented regarding the decision-making criteria used even when race, color or national origin has not entered into the placement decision.
2. The placement decision shall be documented and, when completed, will be maintained in the Placement Department files.
3. Staff from Extended Services, Short Term Service, Caregiver Resource Management or Placement Department may not conduct an assessment of or initiate a discussion regarding the prospective or current caregiver's ability to parent a child of a different race, color or national origin.
4. The child's prospective or current caregiver may initiate dialogue about issues regarding parenting children who are of a different race, color or national origin than the applicant, and the child's social worker or Placement Department worker may provide information and resources to the family upon request.

**B. ADOPTIVE PLACEMENTS:**

1. The agency requires that every adoption placement decision (for example, foster parent adoption, legal risk, relative, interested individual, child specific, straight out) be documented regarding the decision-making criteria used even when race, color or national origin has not entered into the placement decision.
2. The placement decision shall be made by following the procedures outlined in "Adoption Policy".
3. Written documentation in the form of the "Staffing Summary Form" shall be completed for every placement decision, which includes use of JFS form Documentation 01689 of the Placement Decision-Making Process.

4. Homestudies must be completed using the JFS 01673 and no assessment regarding the applicants' abilities, attitudes, perceptions towards trans-racial/trans-cultural can be conducted by the Adoption Assessor.
5. The applicant/approved adoptive parent may initiate dialogue about issues regarding parenting children who are of a different race, color or national origin than the applicant, and the Adoption Assessor may provide information and resources to the family upon request.
6. No applicant may file a letter or other documentation in the homestudy or record describing their ability to care for a child of a different race, color or national origin. The reason is that this information may inadvertently be used in the assessment or placement decision-making process.

**C. FOSTER/ADOPTIVE HOME RESOURCE MANAGEMENT:**

1. Homestudies must be completed using the JFS 01673 and no assessment regarding the applicants' abilities, attitudes, perceptions towards trans-racial/trans-cultural caregiving can be conducted by the Foster Home Assessor.
2. At any time, an applicant or licensed foster parent may initiate dialogue about issues regarding parenting children who are of a different race, color or national origin than the applicant/foster parent and the Foster Home Assessor may provide information and resources to the family upon their request.
3. No applicant may file a letter or other documentation in the homestudy or record describing their ability to care for a child of a different race, color or national origin. The reason is that this information may inadvertently be used in the assessment or placement decision-making process.

**D. CONTRACTED PLACEMENT MANAGEMENT:**

1. For the placement of any child under any circumstances (for example, initial placement, placement disruptions, planned/unplanned moves) into a NON-CCDCFS home, the agency strives that every placement decision by the NON-CCDCFS foster home licensing agency be documented regarding the decision-making criteria used even when race, color or national origin has not entered into the placement decision.
2. The placement decision shall be documented using the network's "Placement Case Notes" and "Placement Inquiry Questions for Provider" forms or forms developed by the Network Provider.

3. NON-CCDCFS foster homes and their licensing agencies must comply with all policies and procedures outlined in this policy.
4. Staff from the Network Homes Department may not conduct an assessment of or initiate a discussion regarding the prospective or current caregiver's ability to parent a child of a different race, color or national origin.
5. The child's prospective or current caregiver may initiate dialogue about issues regarding parenting children who are of a different race, color or national origin than the applicant, and the child's social worker or Network Homes Department worker may provide information and resources to the family upon request.

**VI. DOCUMENTING VERBATIM COMMENTS:**

If a prospective caregiver, adoptive parent or any other household member makes a comment or takes actions(s) which reflect a negative perspective regarding the race, color or national origin, such comments must be documented, verbatim. The comments/conversation may have taken place during the homestudy interviews, during training or in conversation with staff such as phone calls or face to face contacts. Documentation of these conversations should be made in writing and include the following elements:

- A. Date/time/place of the comments;
- B. What specifically was said (the exact words);
- C. Specify what act or question, if any, that prompted the comments;
- D. The name of the person(s) making such statements;
- E. The other person(s) who were present and may have heard the statements;
- F. The names and locations of other persons who were present at the location where the statements were made and could possibly claim that they heard the speaker's words;
- G. Request the documentation be signed by the person(s) making the comments and note such offer was made in the document;
- H. Obtain signed and dated written statements by witnesses (if possible).

The written documentation should be placed in the prospective family's record but not as a part of the homestudy, unless such statements occur during the homestudy process.

## **VII. POTENTIAL PENALTIES/ RETALITORY ACTIONS PROHIBITED**

- A. Potential Penalties: Violations of MEPA or Title VI could cause a financial penalty to the County or, in some circumstances the potential for an award of money damages.
  
- B. Reporting: Complaints regarding CCDCFS's actions which involve this policy can made to the CCDCFS' Community Relations Unit, 3955 Euclid Avenue, Cleveland Ohio 44115; (216) 432-CARE (2273), 1-800-321-0322, or, to the Ohio Department of Jobs and Family Services, Bureau of Civil Rights, 30 E. Broad Street, 37<sup>th</sup> Floor, Columbus Ohio 43266-0423; (614) 644-2703 or 1-866-227-6353 or United States Department of Health and Human Services, 200 Independence Ave., SW, Room 506-F, Washington, D.C. 20201; 1-800-368-1019 (Voice), 1-800-537-7697 (TDD).
  
- C. CCDCFS shall not intimidate, threaten, coerce, or in any way discriminate or retaliate against any person who has filed an oral or written complaint, testified, assisted, or participated in any manner in the investigation of an alleged violation of MEPA and Title VI. This includes any potential or actual adoptive or foster family, any PCSA, PCPA, or PNA or any employee of any other agency with responsibilities regarding the care or placement of a child in the temporary or permanent custody of the PCSA, PCPA and PNA, such as a guardian ad litem (GAL) or court appointed special advocate (CASA) volunteer. Prohibited retaliatory conduct includes, but is not limited to, reduction in the amount of foster care payments which a family should receive based on the child's needs and unwarranted poor evaluations of an employee by his or her Supervisor.

### **SEE ALSO:**

Ohio Administrative Code 5101:2-48-13  
Ohio Administrative Code 5101:2-42-18.1