

Understanding and Complying with Title VI of the Civil Rights Act of 1964 and the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996

Objectives:

- *To explore values and assumptions regarding transracial, color and national origin (RCNO) in foster care and adoptive placements.*
- *To explore the requirements of the Multiethnic Placement Act of 1994 as amended by the Interethnic Adoption Provisions of 1996 (MEPA).*
- *To explore the requirements of the Title VI Civil Rights Act and how these requirements are linked to MEPA.*
- *To explore the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), and how they are linked to MEPA.*
- *To explore some MEPA and Title VI practice issues.*
- *To explore the impact of MEPA on recruiting of foster parents/adoptive parents.*
- *To increase knowledge of placement practice that comply with MEPA and Title VI.*
- *To increase knowledge of corrective action and financial penalties related to noncompliance with MEPA and Title VI.*

Competencies: Participants will be able to:

- *Identify their own personal values and how they impact their professional practice.*
- *Identify, explore examples of delay and denial in foster care and adoptive placements.*
- *Identify the impact on MEPA and Title VI on recruitment and adoptive placements.*
- *Identify tools and techniques that help prepare and families to make informed decisions and help agencies support them in those decisions.*
- *Define and implement action strategies to ensure that practice is compliant with MEPA and Title VI.*

Content Outline

- What are MEPA and Title VI and how they are relevant to child welfare agencies
- Objectives and Competencies of the Training
- Personal Biases: Values and Assumptions Exercise
- Law, Policy, and Practice Considerations
- Title VI of the Civil Rights Act of 1964 and “Strict Scrutiny”
- History of the Multiethnic Placement Act
- Title IV-B and title IV-E of the Social Security Act and Diligent Recruitment
- The Importance of Data
- MEPA and the title IV-E of the SSA (State Plan)
- Individualized Child/Youth Assessment, RCNO and Placement Decisions
- Culture and Cultural Competence and RCNO-Competence
- Assessing and Preparing Prospective Resource Families
- Family and Community Ties
- Respective Roles of the Office of Civil Rights (OCR) and the Administration for Children and Families (ACF)
- Compliance Tips: Document, Document, Document

1/21/14





Values and Assumptions Exercise

Please indicate whether you agree (A) or disagree (D) with the following statements:

1. ___ There is a right and a wrong motivation for adopting/fostering children transracially.
2. ___ Most people who adopt children from racial backgrounds different from their own do so because they cannot find a child of like race.
3. ___ Placing children outside of their race amounts to cultural genocide.
4. ___ For the most part, child welfare staff understand the implications for foster and adoptive families who parent children from racial backgrounds that differ from their own.
5. ___ Families who *adopt* children of a race, color, national origin, or ethnic background that differs from their own have an obligation to expose the children to their race of origin.
6. ___ Bi-racial children should be placed in minority race families whenever possible.
7. ___ There are negative implications for the psychological development of children who are placed in cross-racial homes.
8. ___ Children who are raised in foster/adoptive families who are of a different race, color, national origin, or ethnic background, are less well adjusted as adults than children were raised in same race foster/adoptive families.
9. ___ Families who *foster* children of a race, color, national origin, or ethnic background that differs from their own have an obligation to expose them to their race of origin.
10. ___ Most families who foster children transracially do not fully understand all of the ramifications to themselves and the children.
11. ___ A child should never be placed into a family where he/she will be the only member of the family who is of a different race.
12. ___ Most families who adopt children transracially think that love will conquer any obstacles they may encounter.
13. ___ Families who adopt children whose language is different than their own should make efforts to support the child's original language.
14. ___ It is more acceptable to adopt a child from a different country than it is to adopt a child transracially in the United States.





Title VI of the Civil Rights Act of 1964

Title VI prohibits discrimination on the basis of Race, Color, National Origin (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.
- 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/youth is the only compelling interest that satisfies the strict scrutiny standard.
- Consideration of RCNO must be on an individualized basis.
- 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/youth. Any placement policy or action that takes RCNO into account is subject to strict scrutiny.





The History of the Multiethnic Placement Act, as Amended

- In 1994, Congress Passed the Multiethnic Placement Act (MEPA).
- The purposes of MEPA are to:
 - Decrease the length of time that children wait to be adopted.
 - Facilitate identification and recruitment of families that can meet the child/youth's needs.
 - Prevent discrimination on the basis of race, color, and national origin (RCNO).
- MEPA was amended in 1996 by the Interethnic Adoption Provisions (IEP) 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 or agency that violates MEPA.
 - The 1994 version of MEPA required agencies not to “categorically deny” any person the opportunity to foster or adopt on the basis of RCNO.
 - That language allowed room for non-categorical denials of opportunity, which is inconsistent with Title VI. So the 1996 amendments removed the “categorically deny” language.
- MEPA also supplemented existing legal standards prohibiting discrimination on the basis of RCNO:
 - The Equal Protection Clause of the 14th Amendment to the U.S. Constitution
 - Title VI of the Civil Rights Act of 1964 (Title VI)
 - We mentioned that Title VI prohibited discrimination in the child welfare context before MEPA was passed. But MEPA specifically applied the civil rights laws to child welfare, and made it clear that discrimination would not be tolerated when making foster care and adoption placement decisions.
 - Following the 1996 amendments emphasized that agencies may not consider race, color or national origin on a routine basis when making placement decisions.
 - Agencies must ensure that its laws, policies and practices are consistent with the current Federal law.





Components of a Diligent Recruitment Plan

- A description of the characteristics of the children/youth for whom homes are needed.
- Specific strategies to reach the individuals and communities that reflect the children/youth 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.
- Strategies for training staff to work with diverse communities.





Diligent Recruitment Case Scenario

Agency B found that they had a large increase in Asian children coming into care from the northern section of the county. The agency decided to specifically recruit for foster/adoptive parents in this area. A Caucasian family from a neighboring/contiguous area that is predominately Caucasian attended an orientation session and were told they would not be considered because they did not live in the targeted area.

- Did this case comply with MEPA/Title VI?

- Why or why not?

- If not, how should the agency have handled the family's request?





National Data

- 397,122 children/youth were in out-of-home care at the end of fiscal year 2012. Of these children approximately: 45% were Caucasian, 22% were African American, 21% were Hispanic, 6% Multiracial, 2% American Indian/Alaskan Native, 4% were race unknown and 0% Asian/Pacific Islander.
- 101,666 children/youth in out-of-home care at the end of fiscal year 2012 were waiting to be adopted.
- Of these children/youth, 41% were Caucasian, 26% were African American, 23% were Hispanic, 7% were Multiracial, 2% were American Indian/Alaskan Native, 2% were race unknown.
- 54% were under 6 years of age; 46% were age 6 and older.
- There were 52,039 finalized adoptions from the public child welfare system in fiscal year 2012.
- Of these adoptions, 56% of the children/youth were adopted by their foster parents, 30% were adopted by relatives, and 14% were adopted by newly non-relative recruited resource.
- 29,471 youth aged out of the child welfare system with no identified permanent resource at the end of fiscal year 2008 approximately.
- Of these youth, approximately 40% were Caucasian, 36% were African American/, 17% were Hispanic, 3% were Multiracial, 1% were American Indian/Alaskan Native, and 1% were Asian.
- The General Child Population's 2010 racial breakdown according to the U.S. Census Bureau is 72% Caucasian, 16% Hispanic, 13% African American, 5% Asian, 3% Multiracial, .9% American Indian/Alaskan Native.

Source: U.S. Department of Health and Human Services, Administration for Children and Families, Administration for Children, Youth and Families, Children's Bureau, AFCARS Data, which are a point in time measure taken at the end of the federal fiscal year, September 30.



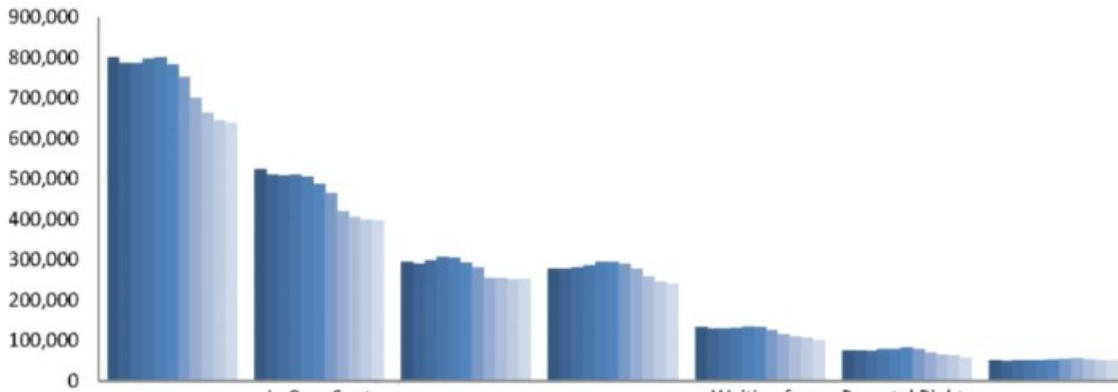


U.S. Department of Health and Human Services, Administration for Children and Families,
Administration on Children, Youth and Families, Children's Bureau, <http://www.acf.hhs.gov/programs/cb>

Trends in Foster Care and Adoption (FFY 2002-FFY 2012)

(Based on data submitted by States as of November 1, 2013)

Source: AFCARS data, U.S. Children's Bureau,
Administration for Children, Youth and Families



	Served	In Care Sept 30th	Entered	Exited	Waiting for Adoption	Parental Rights Terminated	Adopted
2002	800,000	524,000	295,000	277,000	134,000	75,000	51,000
2003	787,000	510,000	289,000	278,000	130,000	76,000	50,000
2004	787,000	508,000	298,000	281,000	130,000	74,000	51,000
2005	797,000	511,000	307,000	286,000	131,000	79,000	52,000
2006	800,000	505,000	305,000	295,000	135,000	80,000	51,000
2007	783,000	488,000	293,000	295,000	134,000	82,000	53,000
2008	752,000	464,000	280,000	289,000	126,000	79,000	55,000
2009	699,000	420,000	255,000	278,000	115,000	71,000	57,000
2010	663,000	405,000	255,000	258,000	110,000	66,000	54,000
2011	644,000	398,000	251,000	246,000	106,000	63,000	51,000
2012	638,000	397,000	252,000	241,000	102,000	59,000	52,000



State and Local Data

- Number of children/youth in care, broken down, by race
- Number of children/youth waiting to be adopted, by race
- Number of children/youth adopted, by race
- Types of adoption: % of foster parent adoption, % of relative adoption, and % of newly recruited family adoption
- Number of children/youth aging out without permanency, by race
- Racial breakdown of children/youth locally





MEPA Case Scenario A

Joey, a 9-year-old boy, was taken into foster care and needed an emergency placement. Joey only spoke Spanish so the agency immediately began searching for a Hispanic family for placement. Mrs. Dierkson, Joey's former ESOL teacher, expressed interest in providing temporary foster care for Joey. The agency advised Mrs. Dierkson that its first preference was an Hispanic family in which Joey would be comfortable. As such, the agency declined Mrs. Dierkson's offer and placed Joey in a shelter group home. Still unable to find a Hispanic family after several weeks, the agency began an extensive recruitment effort to find a Hispanic foster family home in which to place Joey.

- Is the agency's placement process for Joey consistent with Title VI and/or MEPA and its diligent recruitment requirement?

- What did the agency do correctly?

- What, if anything, did the agency do incorrectly?

- What other issues can you identify?





MEPA Case Scenario B

Agency Y has many foster homes available. James J. has just been placed with them. At the time of placement, all that was known about James was that he was a 2-year-old, white male who had been left with a neighbor for three days and his mother never returned. The agency had several foster family homes with whom the agency was familiar, all of whom would have been excellent placements for James J. Two of the foster families were African American; two were Latino; one was Asian American and one was Caucasian. Having worked with the families before, the agency concluded that they basically were indistinguishable in terms of their ability to care for James. Most of the children who came into the agency's care were African American and/or Latino, so the agency chose to place James with the Caucasian family. Because the agency acted efficiently, James was able to enter a loving, stable foster family home immediately and without delay.

- Are there any issues that you see in this case scenario?
- When an agency has several prospective families that might be suitable placements for a child or youth, how should the Agency distinguish between and among families without considering RCNO in a way that violates the law?
- Are there any circumstances where the child/youth's RCNO would be an appropriate consideration?





MEPA Case Scenario C

Donnie, a 3-year-old–bi-racial (Hispanic and Asian) child, has lived with the Rivera's for two years. Like Donnie, the Riveras' ancestry is Mexican. The Riveras include Donnie in all of their family and community activities, many of which involve the Mexican-American community. Donnie became available for adoption but the Riveras are unwilling to adopt. The agency began looking for a Hispanic adoptive family that can provide cultural continuity to Donnie.

- Discuss the agency's efforts to find a family for Donnie in the context of MEPA and Title VI.

- Would your thoughts change if Donnie was 15? If so, how?

- What information would be relevant to the agency?





MEPA Case Scenario D

Ms. Fisher may be interested in providing foster care to an older child. During a prospective foster parent information session, Ms. Fisher asked about transracial foster parenting. The worker responded that the agency sought parents who can address the child’s cultural needs. Ms. Fisher understood the response to mean that children could not be placed transracially. Ms. Fisher now is completing her initial foster parent application. One of the questions asks the race of the child the prospective parent would like to parent. The options are “Black/Afro-American,” “White,” “Spanish” and “Oriental.” Ms. Fisher, who is Caucasian, checked the “White” box. After going home and reading some of the agency’s pre-printed literature, she learned that children can be placed in transracial placements. She informed the agency that she was willing to parent different age children and children from a different race or ethnicity. The agency discouraged her from fostering children of a different race, explaining that it is important to have a parent that can provide for cultural continuity and help the child feel pride in his or her heritage. She understood the agency’s concern, and waited until a Caucasian child was available.

- What are the issues you see in this case scenario?
- Did the agency violate MEPA/ Title VI? If so, how?
- How could the agency improve its process?





MEPA Case Scenario E – Home Study Exercise

STATE OF MEEPAH FAMILY ASSESSMENT

(FOR USE DURING THE FOSTER CARE AND ADOPTION APPROVAL PROCESS)

Family Name:

Worker's Name:

Approval Date:

License Effective Date:

Prospective Resource Family For (check one):

- Foster Care
- Therapeutic Foster Care
- Adoption
- Special Needs Adoption
- Other

Prospective Parent #1

Applicant's Name:

Applicant's Date of Birth:

Gender: Male Female

Race/Ethnicity:

Religion:

Language:

Home Phone:

Work Phone:

Emergency Phone:

Prospective Parent #2

Applicant's Name:

Applicant's Date of Birth:

Gender: Male Female

Race/Ethnicity:

Religion:

Language:

Home Phone:

Work Phone:

Emergency Phone:

Date of Marriage:

Other Adults in Household

Name:

SSN:

Date of birth:

Gender: Male Female

Race/Ethnicity:

Religion:

Language:

Relationship to Applicant(s):

(continued on next page)



MOTIVATION

Parent #1

Give the applicant's stated reason for wanting to foster or adopt.

Parent #2

Give the applicant's stated reason for wanting to foster or adopt.

Study Worker's Assessment

Include observations, review of group participations, interview and written materials.

HISTORY

Parent #1

Childhood: Parent's relationship, sibling relationships, impression and memories of childhood; physical, sexual or emotional abuse; history of neglect; domestic violence and any long or short-term impact it had on the family and on the individual; history of feeling protected and nurtured/safe in own home.

History of relationships and losses: Include all serious relationships and relationships/experiences with other races or cultures.

Educational History: Public or private schools; academics and feelings about school; diplomas or degree(s) and year; diversity in school setting. General attitude about school and education in the past.

Employment: Locations, years of employment, job title, reason for job changes.

Health History: Childhood health, chronic illnesses/diagnosis; current diagnoses/prognoses; medications; psychiatric history; historical alcohol or drug use treatment. Child bearing experience and infertility.

Parent #2

Childhood: Parent's relationship, sibling relationships, impression and memories of childhood; physical, sexual or emotional abuse; history of neglect; domestic violence and any long or short-term impact it had on the family and on the individual; history of feeling protected and nurtured/safe in own home.

History of relationships and losses: Include all serious relationships and relationships/experiences with other races or cultures.

Educational History: Public or private schools; academics and feelings about school; diplomas or degree(s) and year; diversity in school setting. General attitude about school and education in the past.

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Employment: Locations, years of employment, job title, reason for job changes.

Health History: Childhood health, chronic illnesses/diagnosis; current diagnoses/prognoses; medications; psychiatric history; historical alcohol or drug use treatment. Child bearing experience and infertility.

Study Worker's Assessment

Include observations, review of group participations, interview and written materials. Identify any unmet needs for support; ability to support children.

ADULT FUNCTIONING

Parent #1

Description of the person: How do they present, general temperament and how do they describe themselves. What is their style of communication Their ability to make judgments, ability to follow through, ability to make decisions, flexibility, attitudes toward people of similar/different races, cultures, religions, involvements in and out of the home, hobbies, responsibilities. (Provide examples)

General health/mental health: Self esteem, response to stress, how do they handle changes, problem solving, emotional control, current health, current mental health, current medications, experiences with counseling, physical and medical conditions/problems.

Parent #2

Description of the person: How do they present, general temperament and how do they describe themselves. What is their style of communication Their ability to make judgments, ability to follow through, ability to make decisions, flexibility, attitudes toward people of similar/different races, cultures, religions, involvements in and out of the home, hobbies, responsibilities. (Provide examples)

General health/mental health: Self esteem, response to stress, how do they handle changes, problem solving, emotional control, current health, current mental health, current medications, experiences with counseling, physical and medical conditions/problems.

Study Worker's Assessment

Include observations, review of group participations, interview and written materials.

PARENTING

Parent #1

Experience: Relationship with own children and other children, their expectations for children and tolerance level, their experience with helping children deal with loss, their ability to protect children and their expected or current level of involvement with children's daily lives, their knowledge and experience of meeting children's developmental needs, including projected cultural and heritage needs, and addressing developmental delays.

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Discipline: How were they disciplined as children? What are their beliefs about discipline? What techniques do they use or plan to use? Give examples. Ability to comply with discipline regulation and openness to trying new approaches. (Make sure to have applicant sign discipline agreement).

Parent #2

Experience: Relationship with own children and other children, their expectations for children and tolerance level, their experience with helping children deal with loss, their ability to protect children and their expected or current level of involvement with children's daily lives, their knowledge and experience of meeting children's developmental needs, including projected cultural and heritage needs, and addressing developmental delays.

Discipline: How were they disciplined as children? What are their beliefs about discipline? What techniques do they use or plan to use? Give examples. Ability to comply with discipline regulation and openness to trying new approaches. (Make sure to have applicant sign discipline agreement).

Study Worker's Assessment

Include observations, review of group participation, interview and written materials.

CHILD

Include: age and general description of their personality and level of development. Discuss their vulnerability with foster or adoptive children being placed in the home. School and intellectual functioning including school reference. Behavioral, mental health, developmental or medical issues to be considered when placing another child in the home. The child's feelings or understanding about having a foster or adoptive child in the home. Parent's attitudes toward their child. The child's perception of children of a different race and feelings about them becoming members of the household. Relationship of child with own siblings/connecting outside of family.

Child #1:

Study Worker's Assessment

Include observations, interview and written materials.

FAMILY FUNCTIONING

Include: family structure, clarity of roles and boundaries, communication, general climate in the household, how family decisions are made, displays of affection, marital issues, recreational activities, religious involvement, attitudes, exposure and involvement with transcultural/racial/religious people, activities and groups. Address the family's genogram (attach it at end of study). Describe daily routine.

Study Worker's Assessment

Include observations, interview and written materials.

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SUPPORTING RELATIONSHIPS BETWEEN CHILDREN AND FAMILIES

What is the family's definition of abuse or neglect, how do they view children who have been abused, what is their viewpoint of the offending parent, attitude toward family visitation, can they transport children to visits? Will they allow visits in their home? Attitude toward reunification, discuss legal risk visitation for this family and the family's attitude toward sharing background information and life book with a child. Their feelings about search issues. Their extended family's feelings about transcultural/transracial placements and the ability of their community to support children of different racial backgrounds. Their attitude toward connecting children to safe, nurturing relationships intended to last a lifetime.

Study Worker's Assessment

Include observations, review of group participation, interview and written materials.

SUPPORTS, FAMILY AND COMMUNITY RESOURCES

Note current relationships and peer relationships, discuss nature of extended family support, support of non-related persons. Involvement and expected support from organizations, clubs, churches, etc. Family's ability to seek and utilize resources. Ability to work as a member of a professional team. Discuss their ability and willingness to transport child to therapy and engage child with recreational activities outside the home. What resources are available in their community? Include ongoing training and support groups available to this family. Address their ecomap and attach at the end of the study.

Study Worker's Assessment

Include observations, review of group participation, interview and written materials.

- Do you see any issues with this home study?
- Does the home study violate MEPA/Title VI? If so, how?
- What improvements could be made to the home study?





MEPA Case Scenario F

Dr. Humphrey, and Dr. Matthews-Humphrey, an African American couple, had completed the home study process and were ready to choose a child to adopt. The Humphreys asked to see only African American children, age 1-7, with mild special needs. They stated that they have explored the various types of children in care and assessed their capacity to parent and decided they would best parent a same-race child. June, the adoption worker, stated that she would love to show them children available for adoption, but that she would also need to show them children of all races to be fair to all of the children, and to comply with the law.

- Must the agency show all children/youth in order to comply with MEPA/Title VI? Why or Why not?





MEPA Case Scenario G

Mr. Richardson, a 34-year-old Caucasian man, lived in Pinkney. He had sole custody of his three children between the ages of 3 and 12. Nine months ago, the children were removed from his house due to substantiated neglect. Mr. Richardson had not complied with requirements set by the court to re-obtain custody, so TPR had been filed. Mr. Richardson decided to voluntarily terminate his parental rights with one stipulation—that the children must be placed with a Caucasian family. The agency decided to honor his wishes because it was at his request, and because the agency had an opportunity to move the children quickly to permanency.

- How should the agency proceed?





MEPA Case Scenario H

Mr. and Mrs. Jones, a Caucasian family, have been working with Agency D to adopt a child. They both expressed an interest in a child, age 2-6, preferably a boy. Their original stated preference was for a Caucasian boy with Nordic features that were similar to their own features. However, after a 10 month wait, no such children/youth were available for adoption. At that point, the Joneses told the agency that they would be willing to adopt a child of any race. Within a month, the agency identified William, an African American boy, age 3, who was available for adoption and that met the criteria the Joneses requested. During the family assessment process, the Joneses made derogatory statements about African Americans to the worker, on several occasions telling racially inflammatory jokes.

- Had there been a child/youth available that matched the Jones' original requested characteristics, could the worker have honored the request without violating MEPA/Title VI? Why or why not?
- How should the worker that heard the Jones' comments proceed? What should the worker be considering?
- Can the worker decline to place William with the Joneses? If no, why not? If yes, why? Describe any actions the worker should take either way.
- Would your answers change if, instead of derogatory statements, the Joneses had said to the worker that they "love their neighborhood because all of the people look like we could be related to one another!" If not, why not? If so, why? Would the worker need to address these comments? If not, why not? If so, why and how?



PART II

The worker was concerned about the Joneses' statements that they "love their neighborhood because all of the people look like we could be related to one another!" The worker discussed the concerns with supervisors in the agency. William's foster family placement was very stable, and he was thriving and happy in the placement, so the agency felt comfortable spending time trying to determine whether the Joneses' comments were problematic; supervisors could not agree. While the agency considered the statements, the Walker family, an African American family, also requested to adopt William. The agency conducted a home study, and concluded that there were no barriers to the Walkers meeting William's needs. Because there were lingering, unanswered questions about whether the Joneses could meet William's needs, the agency decided to place William with the Walker family.

- Did the agency violate MEPA/Title VI? If so, how? If not, why not?

- Did the agency handle its concerns about the Joneses well? If so, how? If not, what could the agency have done differently?



PART III

The Joneses were furious that William was placed with the Walker family. They called the agency and complained. The agency told them that their disappointment was noted, but that the placement would stand because the Walkers were able to provide for William's educational, cultural and heritage needs, both in the short- and long term. The Joneses filed a complaint with the Office for Civil Rights began an investigation.

- Discuss the agency's response to the Joneses.

- What type of documentation or information might OCR be looking for during its fact-finding investigation? Were you the agency's Director or General Counsel, what documents or information would you hope would be in the files?



