

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

Trainer's Guide



NATIONAL RESOURCE CENTER
for *Adoption*

at Spaulding for Children
– A Service of the Children's Bureau & –
Member of the Training & Technical Assistance Network



**Children's
Bureau**
1912 – 2012

100 years of serving our nation's children and families

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National Resource Center for Adoption

MEPA
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Components of the MEPA Trainer's Guide

The Trainer's Guide is designed to provide a outline of the issues of Title VI of the Civil Rights Act of 1964 (Title VI) and the Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996 (MEPA). This Guide was developed using the federally approved 2009 MEPA PowerPoint created by the Children's Bureau and the Office of Civil Rights. This Guide accompanies the MEPA PowerPoint and has four sections: trainer's preparation instructions, training materials, including Participant's Handouts, and a reference section.

1. The ***trainer's preparation section***, copied in blue, includes:
 - **This specific directions on unique features of the specific** module. Segments of the modules require gathering current policies, procedures, case recording formats, statistics, and information for the training location. This should be done at least six weeks before the training.
 - **Required Materials/Equipment and Room Setup** lists the items specifically needed for training this module.
2. The ***training materials section*** includes the actual training content with instructions on what to do and say. The material is quite thorough. Rather, the detail is provided so that the trainer will be best prepared to cover the content. It is suggested that the trainer, as part of his/her preparation, write bulleted notes for the content in the margins to keep him/her on track and ensure that the material is covered without reading.

Within the Trainer's Guide, each type of activity and instruction is designated by a labeled icon. They are as follows:



Directions to Trainer

Directions tells the trainer what needs to be done during a particular segment. It is up to individual trainers to decide how to accomplish these tasks during their preparation for training. Sometimes, this icon does not appear but a check mark "✓" is at the beginning of a sentence which is a direction for the trainer.



Trainer's Points to Participants

This section is content for mini-lectures. The factual information to be shared with participants is contained here. It is thoroughly written so that the trainer is prepared to discuss relevant points. If there is a **P** before the point, this indicates the information has been taken directly from the MEPA PowerPoint. If there is an **N** before the point, this indicates the information has been taken directly from the "Trainer's Notes" portion of the MEPA PowerPoint. Information includes both directions for the trainer and trainer's points to be disseminated to the participants.



State-specific Information

This section includes state-specific policies and procedures. It is designed to ensure that the participants receive training that is consistent with the policies and procedures that impact their daily practice.



Large Group Discussion

This section offers proven triggers for stimulating exchanges in the large group setting. It includes suggestions for managing the large group discussion to keep it lively, informative and on track.



Team Activity

Team activities provide the opportunity for open discussion of attitudes, feelings and reactions to information presented throughout the training. They also provide a forum for participants to get to know one another and to develop a supportive network.



Individual Activity

Individual activities emphasize self-assessment and personal discovery. The Trainer's Guide provides clear instructions, hints and rationales to help make these activities meaningful and productive.



Participant's Handouts

The Participant's Handouts icon identifies materials that the participants will use during the training as well as materials that are not trained but that participants are to use for reference.



Transition

Transitions help the trainer more easily move the participants from one discussion or activity to another.

3. Participant's Handout Materials

Participant's Handout materials are reproduced in the Trainer's Guide immediately follow the trainer's reference to them, always beginning on a new page. A white space might appear before these materials. Some of the TG's Participant's Handouts have answers or prompts. Those given to the participants do not.

Each participant should be given Participant's Handouts copied from the CD named Participant's Handouts included in the Trainer's Guide. The handouts include State or agency specific data that the trainer should obtain and insert at the designated page for that content.

4. Reference

These materials are used by the trainer for additional resource information. They are printed on pink paper.



Module: 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

Trainer's Preparation

Module Contents and Training Process

This module includes the following:

- Addresses the requirements of specific Federal laws that prohibit certain child welfare agencies (and other recipients of Federal funding) from discriminating against children/youth in care or prospective families on the basis of race, color or national origin when making foster care or adoption placement decisions.
- These laws are Title VI of the Civil Rights Act of 1964 (Title VI), Multiethnic Placement Act of 1994, as amended by the Interethnic Adoption Provisions of 1996 (MEPA).

Preparing to Train

The Trainer must assess the knowledge and experience of the participants before the training and tailor the Trainer's Comments, Individual and Team Activities, and the Large Group Discussions at the appropriate level. The module includes far more information than can be discussed in the time allotted so that Trainers will have appropriate information available to select from in tailoring the training to meet the needs of the participants.

Trainers must secure, comprehend and integrate the following information:

- The most recent Adoption and Foster Care Analysis Reporting System (AFCARS) national data on child/youth characteristics.
- The most recent State-specific data comparable to AFCARS.
- The MEPA legislation, Children's Bureau and Office of Civil Rights guidances and policy statements regarding MEPA and Title VI, and any Office of Civil Rights Letters of Findings affecting the State in which the training is delivered.
- The Child and Family Services and Review and Program Improvement Plan for the State in which the training is delivered.



- Review and be totally comfortable with the content and delivery methods required for this module.

Required materials/equipment and room setup for this module:

- The basic materials needed for this training session are:
 - Trainer's Guide
 - Participant's Handouts
 - Evaluation Forms
 - Wall Screen/laptop and LCD projector, DVD player
 - PowerPoint presentation
 - Easel and easel paper
 - Pens/pencils, markers, erasers
 - Extension cords
 - Name tents
 - Post-it pads and index cards
 - Parking Lot poster or easel paper labeled "Parking Lot"
 - Masking tape
 - Sign-in sheets
 - State and local data
- An ideal size for a session is 20-25 participants. Round tables for five participants per table help to set the informal, interactive tone for the training. Additionally, since much of the curriculum involves Team Activities, this seating arrangement reduces the time required for participants to get into teams and be visible to one another as they complete activities. It is helpful for the trainers to move around the room while speaking and not stand behind a podium or table.

General Training Tips

Before the training day

- Talk with co-trainers about how to train as a team. Set ground rules for working together, and delineate roles.
- Arrange for the training room and room setup.
- Arrange for the needed equipment and training supplies.
- Ensure that there are copies of the participant handout—one for each participant.



Read and review the Trainer's Guide

- The **Introduction: Objectives, Competencies, and Content** for each module and provide specific preparation instructions for the module.

Review the agenda for each training session

- Trainers should use the white space in the **Trainer's Guide** for summary bullets that will keep them on track and ensure that the content is covered in the time allotted.
- Trainers may find it helpful to underscore or highlight concepts and key points to emphasize, adding personal comments and anecdotes as appropriate.

During the training

- Validate participants responses by rephrasing, reinforcing or repeating later during training by smiling, making eye contact, nodding, gesturing in a nonjudgmental way. **Never say, "Yes but . . ."**
- Take some risks in sharing information about your personal experiences and feelings. Model that it is all right to do this. Make the group more comfortable and willing to take risks.
- Keep the training experiences lively.
- Make clear transitions between segments of each session by bringing each segment to closure and introducing new segments by tying in concepts and ideas from previous materials. Use participants comments as transitions whenever possible.
- Be conscious of time. **Each subject need not be exhausted before you move on.** Move the group along without making participants feel rushed.
- Start and end each session on time. **Never keep participants for more than the time allotted for each module.**
- If you are using a PowerPoint presentation, make sure you know how to work the laptop and the LCD. Test to ensure that everything is in working order before the training starts.



After the training

- Review participant evaluations, note where you succeeded and where you did not do so well and modify your future preparations and presentations based on this feed-back.
- Debrief with your co-trainer.
- Provide information to National Resource Center for Adoption on areas/issues that need further research or refinement.



Agenda

Welcome, Introductions, Overview, and Ice/Breaker

MEPA and Title VI: How are They Relevant to Child Welfare Agencies

Objectives and Competencies

Personal Biases: Values and Assumptions Exercise

Law and Policy: Agenda for Discussion

Title VI of the Civil Rights Act of 1964 and “Strict Scrutiny”

Break

History of the Multiethnic Placement Act

Titles IV-B and IV-E of the Social Security Act and Diligent Recruitment

Diligent Recruitment and Data

Video: *The Road to Adoption and Foster Care: Children in Foster Care*

MEPA and title IV-E of the SSA (State Plan)

Individually Assessing a Child/Youth’s Needs

Culture, Cultural Competence, and RCNO-Competence

Assessing and Preparing Prospective Resource Families

Family and Community Ties

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

Compliance Tips: Document, Document, Document

Closure





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



Welcome and Overview

Purpose:

- *Welcome participants to the training site.*
- *Share any necessary “housekeeping” details such as break times, bathroom facility locations, lunch arrangements, cell phone usage, etc.*

Trainer’s Points

- ☐ Welcome to the Multiethnic Placement Training. My name is . . .
(introduce self and give some background information).
- ☐ Before we begin, let’s take care of a few housekeeping details. The rest rooms are located. . . .
- ☐ Please turn off all cell phones or put them on vibrate. Take emergency calls outside the training room so as not to disrupt others.
- ☐ Your questions will be answered when asked or deferred to a later point in the training. If deferred, they will be written in the Parking Lot posted on the wall here to ensure that they are answered. If, during the course of the training, you have a question that you do not choose to ask aloud, feel free to write it on a post-it note and place it in the Parking Lot. If the question can’t be resolved during the training, or if the question is “case specific” in nature, the trainer will direct you to write your question on an index card which will be forwarded to the Children’s Bureau for an answer.
- ☐ Each of you has a packet of Participant’s Handouts. These Handouts contain information to be discussed today as well as additional information for your review after the training.
- ☐ This module addresses the Title VI, Multiethnic Placement Act of 1994 as amended by the Interethnic Adoption Provisions of 1996 (title IV-B and title IV-E of the Social Security Act).
- ☐ We will address values and assumptions related to transracial, color and national origin practice issues, requirements of MEPA and Title VI, and provide tools and techniques to assist you in meeting the expectations of the law and policy.
- ☐ This training is designed to engage you in the training process through the use of team activities, large group discussions and individual exercises.

Trainer's
Points





Participant Introductions

(Select one of the options.)

Trainer's Points

- ☐ Now let's take time to get to know one another. *(Select one of the options.)*

Directions

Option 1: Walkabout

- ✓ Write the following questions on easel paper:
 - **What strengths do you bring to this training?**
 - **What do you want to learn in this training?**
 - **What is the greatest challenge in placing children from the child welfare system with adoptive families?**
- ✓ As participants arrive, ask each to walk about and answer the questions.
- ✓ After answering the questions, participants find a space and complete the nameplate.
- ✓ When you get to this section, ask participants to share their names and places of employment.
- ✓ Review the answers to the Walkabout. Summarize and comment on the similarities and differences in the answers, how the strengths of the participants support the training and if the challenges will be addressed.

Option 2: Group Introductions

- ☐ Please share with us your responses to these four questions:
 - **Who are you?**
 - **Where do you work?**
 - **What tasks do you perform?**
 - **What are your expectations for the training?**
- ☐ I will write the expectations for the training on easel paper and post them. If there are expectations outside the scope of what we can accomplish today, I will tell you. We will check back during the course of the day to determine if we are meeting your expectations.



Option 3: Personal Introductions

- ☐ Find someone you don't know.
- ☐ You have 1 minute to identify two things not apparent that you have in common besides your job or workplace.
- ☐ Identify an adoption success you had in the last year.

Directions

- ✓ Ask volunteers to share some commonalities and successes.
- ✓ Summarize responses.





What are MEPA and how are They Relevant to Child Welfare Agencies?

Trainer's Points

- The Multiethnic Placement Act, as amended (MEPA) is a Federal law which governs the manner in which title IV-B/IV-E agencies make placement decisions that involve race, color, and national origin (RCNO).
- Title VI of the Civil Rights Act of 1964 (Title VI) is a Federal law which prohibits discrimination on the basis of RCNO by recipients of federal financial assistance.
- We will discuss these Federal laws and discuss how agencies must practice in light of these laws.



Objectives and Competencies

Trainer's Points



- ☐ The objectives and competencies of this training are as follows:

Objectives

- P** To explore values and assumptions regarding race, color and national origin (RCNO) in foster care and adoptive placements.
- P** To explore the requirements of MEPA.
- P** To explore the requirements of Title VI of the Civil Rights Act of 1964 (Title VI), and how they are linked to MEPA.
- P** To explore some MEPA and Title VI practice issues.
- P** To explore the impact of MEPA on recruiting foster parents/adoptive parents.
- P** To increase knowledge of placement practices that comply with MEPA and Title VI
- P** To increase knowledge of corrective action and financial penalties related to noncompliance with MEPA and Title VI.

Competencies

Participant's will be able to:

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



Personal Biases: Values and Assumptions Exercise



Trainer's Points

- ☐ Past experiences shape current behavior and lead to values and biases that affect our work. It is a constant challenge to keep our personal biases and values from influencing our professional responsibilities. However, the first step in managing the influence of personal biases is to recognize that they exist and to actively monitor our conversations and actions with our clients to ensure that we provide accurate information; complete objective, professional assessments, and make placement decisions that do not reflect our own personal biases.
- ☐ Turn to the **Participant's Handout 1, *Values and Assumptions Exercise***.



Handout

Handout 1



Individual Activity

Individual Activity

- ☐ This exercise gives you an opportunity to explore your own opinions regarding cross-racial placements.
- ☐ Read each statement and indicate whether you agree or disagree.
- ☐ You will have 10 minutes to complete the exercise.
- ☐ At the end of the 10 minutes, volunteers will be solicited to comment on your responses to the statements. Due to the sensitive nature of this exercise, no one will be required to comment.



Large Group Discussion

Large Group Discussion

- ☐ Would someone like to share their responses?
- ☐ How might your values influence placement decisions?
- ✓ If no one shares their responses, share your responses.

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.





Transition

- ◆ Are there any further questions or comments on anything we have discussed thus far?
- ◆ Next, we are going to look at the law, policy and practice considerations for transracial placements.



Law and Policy: Agenda for Discussion

Trainer's Points



- ☐ Review the following points with the participants, which are also articulated on the power point slides.
- ☐ During this segment, we will discuss:
 - P** Federal laws that apply to the consideration of Race, Color, and National Origin (RCNO) and how they interrelate.
 - P** Practical guidance on how child welfare agencies and social workers can comply with MEPA and Title VI in their programs and daily practice.
 - P** Respective roles of the Administration for Children and Families (ACF) and the Office for Civil Rights (OCR), both of which are in the Department of Health and Human Services.
 - P** Enforcement of Title VI and MEPA.
 - P** Compliance tips
 - P** Resources
 - P** Legal, Regulatory, and Policy Authority
- ☐ As well as the following Practice Considerations including:
 - P** Diligent recruitment
 - P** Denying opportunities to foster or adopt based on RCNO; delaying, or denying placements based on RCNO
 - P** Individualized assessment
 - P** Culture and cultural competence.
 - P** Assessing and preparing prospective parents
 - P** Requests of parents
 - P** Concerns about prospective parents
 - P** Family and community ties
 - P** Photo listings



- There are a couple of caveats:
 - When we discuss “MEPA,” we are referring to MEPA, as amended by the IEP Amendments in 1996.
 - 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.
- We will now discuss Federal laws that apply to the consideration of race, color and national origin (RCNO) in foster care and adoptions as follows:
 - Title VI of the Civil Rights Act of 1964
 - MEPA: Diligent Recruitment (title IV-B of the Social Security Act)
 - MEPA, as amended: title IV-E of the Social Security Act
- Entities to which these laws apply:
 - **Title VI:** 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, such as international adoptions or Indian children who are subject to the Indian Child Welfare Act.

N *NOTE TO TRAINER: Do not discuss the requirements of the Indian Child Welfare Act. The Bureau of Indian Affairs (BIA) administers ICWA, and as such, we are not able to address it.*

Trainer's
Points

☐ The following are definitions of Race, Color, and National Origin (RCNO):

- P** Race – Asian, Black or African American, White, Native Hawaiian or other Pacific Islander, and American Indian or Alaska Native
- P** Color – skin tone or complexion
- P** National Origin – a child's/youth's or parent's ancestry; for example, Hispanic, Ukrainian, Filipino
- P** Discrimination on the basis of ethnicity is encompassed by Title VI's prohibitions against national origin discrimination.
- P** MEPA and Title VI do not address discrimination on the basis of religion, age, gender, culture, sexual orientation or any other characteristic.

N *NOTE TO TRAINER: Race categories have been established by the Office of Management and Budget. These are the categories that ACF and OCR use to assess compliance with the law. National origin refers to a child's or a parent's ancestry, not necessarily the child or parent's country of origin. For ethnicity, ACF often talks about ethnicity in the context of people of Hispanic ethnicity. Although the word "ethnicity" does not appear in MEPA or Title VI, discrimination on the basis of ethnicity is prohibited, if it is being used to describe RCNO. There are other Federal and sometimes State statutes that may cover discrimination on the basis of other characteristics.*

Transition

- ◆ We have provided a quick framework for laws and policies that we will be discussing throughout the training. Are there any questions?
- ◆ Now let's go further in depth with our discussion on Title VI.



Title VI of the Civil Rights Act of 1964 and “Strict Scrutiny”

Trainer's
Points



Handout

Handout 2

Trainer's Points

- ☐ Turn to **Participant's Handout 2, Title VI of the Civil Rights Act of 1964.**
- ✓ Review the following points from the handout with participants. This is also included verbatim on the PowerPoint slide and notes page.
- Ⓝ *This slide can be confusing, and the language may be intimidating. But, don't worry, what is important is that you understand how to comply with Title VI. During the training, we will apply these principles to your practice so that you understand Title VI as it applies to your practice.*
- Ⓝ Let me explain a little bit about Title VI before we continue:
 - Ⓝ Title VI is a broad Federal civil rights statute that was enacted as part of the Civil Rights Act of 1964.
 - Ⓝ It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.
- Ⓝ In addition to title IV-B/IV-E child welfare agencies, some of the institutions or programs that may be covered by Title VI are:
 - Ⓝ extended care facilities, public assistance programs, nursing homes, adoption agencies, hospitals, day care centers, mental health centers, senior citizen centers, Medicaid and Medicare, family health centers and clinics, alcohol and drug treatment centers (from OCR's web site)
- Ⓝ Even before MEPA was enacted in 1994, Title VI prohibited title IV-B and IV-E agencies from discriminating against children and parents on the basis of RCNO.
- Ⓟ 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.
- Ⓟ 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.
- Ⓝ Strict scrutiny is the highest standard of Constitutional review.
- Ⓝ In terms of practice, IVB/IVE agencies need to understand how closely their decisions to consider RCNO when making placement decisions will be reviewed by HHS or a reviewing Federal court.
- Ⓟ 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.

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.



Transition

- ◆ We have discussed Title VI. Are there any questions?
- ◆ Now let's discuss the history of the Multiethnic Placement Act, as amended.





Handout 3

History of the Multiethnic Placement Act (MEPA)

Trainer's Points

- Turn to **Participant's Handout 3, *History of the Multiethnic Placement Act***.
- ✓ Review the following points from the handout with participants. This is also included verbatim on the PowerPoint slide:
 - In 1994, Congress passed the MEPA.
 - The purposes of MEPA are to:
 - decrease the length of time that children/youth wait to be adopted.
 - facilitate identification and recruitment of families that can meet the child/youth's needs.
 - prevent discrimination on the basis of 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.
 - Some interpreted that language allow room for non-categorical denials of opportunity. The 1996 amendments removed the “categorically deny” language.
 - MEPA 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



- Ⓝ I mentioned that Title VI prohibited discrimination in the child welfare context before MEPA was passed. 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.
- Ⓟ Agencies may not consider race, color or national origin on a routine basis when making placement decisions.
- Ⓟ We will discuss when agencies may or may not involve RCNO when making placement decisions.
- Ⓝ The amendment in 1996 made clear that RCNO could not be routinely considered in making placement decisions.
- Ⓝ Agencies must ensure that their state laws, agency regulations, policies, and practices are consistent with the current Federal law.

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.



Transition

- ◆ We have discussed the history of MEPA. Are there any questions?
- ◆ Now let's discuss Titles IV- B and IV-E of the Social Security Act and the concept of Diligent Recruitment.





Titles IV-B and IV-E of the Social Security Act and Diligent Recruitment

Trainer's Points

- Two complementary State plan provisions that address issues related to RCNO:
 - Title IV-B addresses prospective parent recruitment.
 - Title IV-E addresses consideration of RCNO during the placement process.
- We will talk about why and how they are complementary in a moment.

MEPA: Diligent Recruitment (title IV-B of the Social Security Act)

- 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/youth currently in the State foster care system for whom homes are needed.

Diligent Recruitment

- The State **may**:
 - Conduct recruitment activities for the purpose of recruiting parents who reflect the racial and ethnic diversity of the children/youth in care who need homes.
 - 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/youth.
- The diligent recruitment provision does not require an agency to recruit prospective parents for the purpose of increasing the number of transracial placements.
- 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.
- Ⓟ **Must accept** applications from prospective parents who express interest in providing care to a child/youth whose race or ethnicity does not match their own.

☐ Turn to **Participant's Handout 4, *Components for a Diligent Recruitment Plan***.

✓ Review the following points from the handout with participants. This is also included verbatim on the PowerPoint slide.

- Ⓟ Components of a diligent recruitment plan may include:
 - Ⓟ 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 and for dealing with linguistic barriers.

Trainer's
Points



Handout 4



Components of a Diligent Recruitment Plan

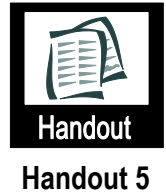
- A description of the characteristics of the children/youth for whom homes are needed.
- Specific strategies to reach the individuals and communities that reflect the children/youth in care who need homes.
- Diverse methods of disseminating general and child-specific information.
- Strategies for ensuring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



Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 5, *Diligent Recruitment Case Scenario***.
- ☐ We will assign each team the case scenario. Each team has 10 minutes to:

- P Did this case comply with MEPA/Title VI?**
- P Why or why not?**
- P If not, how should the agency have handled the family's request?**



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?



Transition

- ◆ We have discussed titles IV-B and IV-E of the Social Security Act and Diligent Recruitment. Are there any further questions?





Diligent Recruitment and Data

*NOTE TO TRAINER: AFCARS and the Trends in Foster Care and Adoption Chart must be updated on a yearly basis in order to give an accurate picture. Trainers should be aware of the current racial breakdown of children/youth that were adopted from the child welfare system, both nationally and in the State. This information should be obtained prior to the training. Nationally, this data can be obtained from AFCARS data located on the Children's Bureau's web site at www.acf.hhs.gov/programs/cb/index.htm. To the extent possible, have this information ready to present for the State or county/region you are presenting to. If you are unable to obtain it prior to the training, to the extent possible, solicit and discuss these numbers from the class participants during the training. Also you can discuss how these data are measured/tracked and the extent to which the agency uses data to inform their practice and recruitment efforts. Within the specific State, the trainer can either request data directly from the State or gather the information from the Children's Bureau's web site. **Trainer will need to create State data to be handed out.***

- ① *Additional NOTE TO TRAINER: The data in the Trends in Foster Care and Adoption chart were submitted to the Adoption and Foster Care Analysis and Reporting System (AFCARS) by States, the District of Columbia, and Puerto Rico by November 1, 2013.*

Sub-population Definitions

- ① ***In foster care on the last day of the federal fiscal year (September 30):** This is an estimated count of all the children in foster care on the last day of the year. An individual child/youth is included in the count for each year for which he or she is in foster care on the last day.*
- ① ***Entering care during the federal fiscal year:** This is an estimated count of all children/youth who enter foster care **during** the year. An individual child or youth is counted only once for each year, even if the child/youth entered, exited and re-entered care during the year. If an individual child or youth entered in one year and then exits and re-enters in a subsequent year, he or she is included in the count of entries for both years.*
- ① ***Exiting care during the federal fiscal year:** This is an estimated count of all children/youth who exited foster care during the fiscal year **at the end of their most recent foster care episode**. An individual child or youth is counted only once for each year, even if the child/youth exited, re-entered and exited again during the year. If an individual child or youth exits care in one year and then re-enters and exits again in a subsequent year, he or she is included in the count of exits for both years.*



- Ⓝ *Waiting children are identified as children who have a goal of adoption and/or whose parental rights have been terminated. Children 16 years old and older whose parents parental rights have been terminated and who have a goal of emancipation have been excluded from the estimate.*

Trainer's Points

- Ⓟ Data informs our practice and particularly informs diligent recruitment. In order to design an effective diligent recruitment program that targets the communities from which children/youth in care who need homes, States need to examine several factors listed below:
 - Ⓟ The number of children/youth in care and waiting children/youth.
 - Ⓟ The breakdown by race compared to the population.
 - Ⓟ The exit from care (both numbers and length of time to exit).
 - Ⓟ An effective diligent recruitment program compares the general population to the population of children waiting and targets the children who are overrepresented in care as compared to the general population.
 - ☐ Let's take a look at **Participant's Handout 6 and 7, National, State and Local Data.**
 - ☐ The national data comes from the DHHS Adoption and Foster Care Analysis and Reporting System known as AFCARS, and this system collects case level information on all children in foster care for whom State child welfare agencies have responsibility for placement, care or supervision and on children who are adopted under the auspices of the State's public child welfare agency.
 - ☐ AFCARS also includes information on foster and adoptive parents.
 - ☐ AFCARS is point in time data measure taken on last day of the federal fiscal year, which is September 30.
 - ☐ The national data we are presenting today is from federal fiscal year 2012. (*Note: Need to update as current AFCARS data becomes available.*)
- ✓Trainer will review the handouts that have the following information:

Trainer's
Points



Handout
Handout
6 & 7



Data Needed



National Data

- P** 397,122 children/youth were in out-of-home care at the end of fiscal year 2012. Of these children, approximately:
 - P** 45% were Caucasian, 22% were African American, 21% Hispanic, 6% Multiracial, 2% American Indian/Alaskan Native, 4% were race unknown and 90% Asian/Pacific Islander.
- N** Here is why data is important: The diligent recruitment provision requires agencies to recruit prospective families that reflect the race and ethnicity of the children in care who need homes.
- N** In order to diligently recruit families that reflect the race and ethnicity of the children in care who need homes. In order to meet this requirement, it is critical for the agency to understand the race and ethnicity of the children in care.
- N** So understanding your data is central to being able to diligently recruit effectively.
- P** 101,666 children/youth in out-of-home care at the end of fiscal year 2012 were waiting to be adopted.
- P** 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.
- P** Approximately 54% were under 6 years of age; 46% were age 6 and older.
- P** There were 52,039 finalized adoptions from the public child welfare system in fiscal year 2012.
- P** Of these adoptions, 56% of the children/youth were adopted by their foster parents, 30% were adopted by relatives, and 14% were adopted by non-relative resource families.
- N** There are clearly implications for the need for foster care recruitment if such a large percentage of children are adopted by their foster parents; those foster parents will no longer be available to offer temporary care.
- N** Clearly, there are also implications for increased efforts for family finding to locate relatives and raise the percentage of children adopted by relatives and lower the number waiting for adoption.

- 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.



National Data

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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.



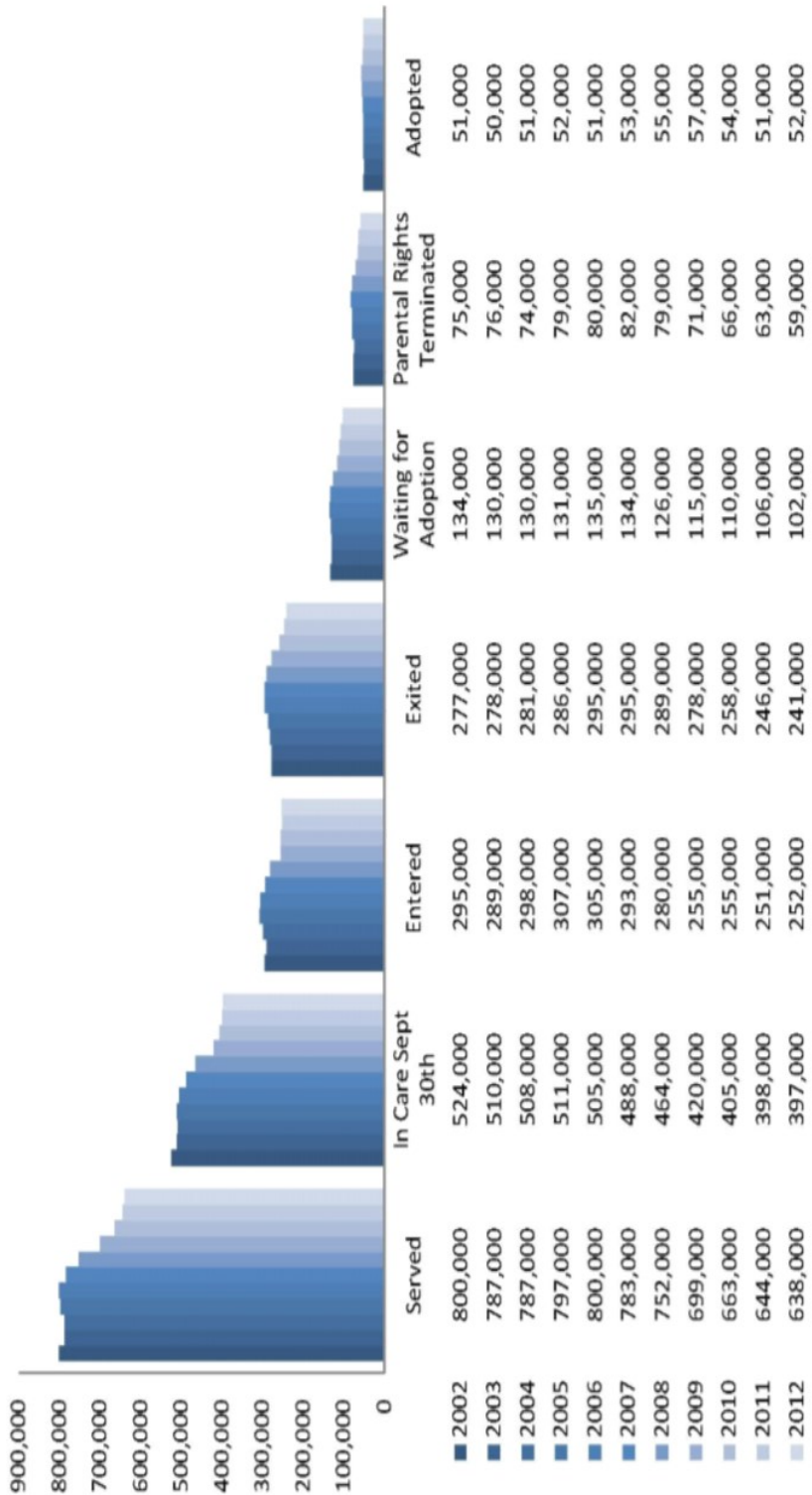


U.S. Department of Health and Human Services, Administration for Children and Families,
Administration on Children, Youth and Families, Children's Bureau, <http://www.acf.hhs.gov/programs/cb>

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





Handout

Handout 7



Data Needed

Trainer's Points

- ☐ Now let's take a look at **Participant's Handout 7, *State and Local Data***.
- ✓ Discuss the state and local data and highlight the trends and implications.
- Ⓝ **NOTE TO TRAINER:** *To the extent possible, have this information ready to present for the State or county/region you are presenting to. If you are unable to obtain it prior to the training, to the extent possible, solicit and discuss these numbers from the class participants during the training. Also you can discuss how these data are measured/tracked and the extent to which the agency uses data to inform their practice and recruitment efforts.*

State Data

- ✓ Have participants pay particular attention to the data below:
 - Ⓟ 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

Large Group Discussion

- Ⓟ Is this information different than you expected?
- Ⓟ If so, what is different than you expected?
- Ⓟ What are the implications for our foster care and adoption practices based on this data?



Large Group Discussion

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





Directions

- It is important for the trainer to have State (and local, if relevant) data on the pertinent areas involved.
- After showing data, the trainer may wish to introduce the six minute video clip from *The Road to Adoption and Foster Care* and say something like, “Now that we’ve looked at the numbers, lets hear from some real kids talk about what permanency means to them.” Keep tying back to good practice. Ask for comments, as time allows, after the video clip.

DVD Description

The Road to Adoption and Foster Care (6:00 min.)

- ☐ In this video, we see and hear the real life experiences from children and youth in the foster care system as they share their stories.

Trainer’s Points

- National, State, local data on:
 - Number of children/youth in care, broken down by race
 - Number of children/youth waiting to be adopted, by race
 - Number of children/youth aging out without permanency, by race
 - Comparing to general population determines if overrepresentation, by race exists
 - Recruitment efforts follow the data
- We also must look at percentage of children/youth in care based on race compared with the general population of the same area (nation/ state/county) being measured.
- **NOTE TO TRAINER:** *Be familiar with State/local data, as well as national, when training in that state/county. This is required in State Plan/CFSP (Child and Family Service Plan) to address recruitment efforts. It is important for practitioners to be aware of national, state, and local data of children in care. Emphasize that there must be an awareness of what the data shows to direct diligent recruitment efforts.*

- Ⓝ Good practice also would indicate examination of other data including:
 - Ⓝ age of children/youth in care and waiting children and youth.
 - Ⓝ membership in sibling groups of children/youth in care and waiting children/youth.
 - Ⓝ membership in sibling groups and by age cross referenced by race.
- Ⓝ We must also look at the breakdown by age and age of children/youth being adopted—though this is not MEPA—it is good practice.
- Ⓝ The three types of recruitment are general, targeted and child specific.
- Ⓟ Diligent recruitment should not be viewed as a separate system.
- Ⓟ It should be part of the overarching process for achieving permanency from the day that a child or youth enters care.
- Ⓝ The analysis of the children/youth's characteristics should take into account the larger percentage of older children who are not expediently placed in permanent homes by current foster care and adoption programs. It is helpful to know the breakdown by age and membership in sibling groups cross referenced by race to better target recruitment efforts.
- Ⓝ This information can be used to specifically recruit resource families who are willing to be dual-licensed to both foster and adopt and who are trained to act as concurrent homes, supporting the achievement of at least two permanency plans.

Transition

- ◆ We have discussed the importance of data and its relationship to diligent recruitment. Are there any further questions?
- ◆ Now let's discuss MEPA and the title IV-E State Plan.



Transition



MEPA and the Title IV-E of the SSA (State Plan)

Trainer's Points

- P** As discussed in the previous segment, the purpose of diligent recruitment is to provide a broad base of permanency resources for children/youth in care who need homes.
- P** MEPA seeks to eliminate discriminatory barriers to placement.
- N** We often hear that agencies are confused because on the one hand, the law requires them not to consider RCNO in most circumstances. And, then on the other hand, the law requires them to consider RCNO for diligent recruitment purposes.
- N** How to square those two concepts?
- N** The reality is that some people will consider trans-RCNO placements and others will not. So it is important to ensure that there are enough resource families who reflect the race and ethnicity of the children in care to try to ensure homes for all. That is what diligent recruitment does. MEPA, on the other hand, seeks to reduce illegal and discriminatory barriers to placement for all children and all prospective parents, including those that are interested in pursuing or considering trans-RCNO placements.
- P** 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:

 - P** **Deny an individual the opportunity** to foster or adopt on the basis of the child/youth's or the prospective parent's RCNO.
 - P** **Delay or deny a child/youth's placement** into foster care or adoption on the basis of the child/youth's or the prospective parent's RCNO.
- N** We know some refer to these provisions as "delay and deny," but it's important to remember that delaying and denying a child's placement is prohibited, but denying an individual the opportunity to provide care also is prohibited. So really, it's delay or deny and denial of opportunity, not just delay or deny of placement.
- P** If an appropriate placement for a child or youth exists, an agency *may not*:



- Ⓟ refuse to place a child/youth with a prospective parent because the parent's RCNO is different than the child/youth's RCNO.
- Ⓟ fail to place a child or youth with a prospective parent because the parent or the child or youth is a specific RCNO.
- Ⓟ remove a child/youth from a prospective parent because the parent or child/youth is a specific RCNO.
- Ⓟ refuse to conduct a home study because the parent or child or youth is a specific RCNO.

Ⓝ *NOTE TO TRAINER: The first and second sub-bullet are different because the first addresses trans-RCNO placements, while the second bullet addresses an agency that does not place a child/youth because the parent or child/youth is a specific RCNO. This distinction just illustrates that MEPA/Title VI apply to trans- and same RCNO placements.*

Delay or Denial of Placement

- Ⓟ If an agency has determined that an appropriate placement for a child/youth exists, the agency may not:
 - Ⓟ Allow the child/youth 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/youth who is doing well in a pre-adoptive placement in order to place the child/youth with a family of a particular RCNO (impermissible denial).
 - Ⓟ Switch a child/youth from one foster placement to another in an effort to place the child/youth into a particular RCNO placement (impermissible denial). Even if the agency reverses itself later and places the child or youth with the original pre-adoptive family, the agency would have impermissibly denied and delayed the child's placement (impermissible denial and delay).
- Ⓝ *NOTE TO TRAINER: Presentation note: We are contemplating a circumstance where the child/youth, like most children and youth, will be able to be placed without consideration of RCNO. Other examples of delay and denial appear in the Child Welfare Policy Manual.*



Handout 8

Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 8, MEPA Case Scenario A.**
- ☐ We will assign each team the case scenario. Each team has 15 minutes to:
 - Ⓟ 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 issues can you identify?



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?

Joey spoke Spanish, and so, of course, it is key to ensure that he is placed with a family that can understand him and that he can understand. However, it is a fallacy to assume that that important need only can be met by an Hispanic family.

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

Delayed Joey's placement with a foster family by rejecting Mrs. Dierkson on the basis of Joey's and/or Mrs. Dierkson's national origin (remember, Hispanic ethnicity is covered through Title VI's prohibition against discrimination on the basis of national origin).

- What issues can you identify?

The agency's efforts are not consistent with the diligent recruitment requirement, which is not designed to find a home for a particular child/youth, but rather for the population of children/youth in care who need homes. As a practice matter, it can be debated whether a shelter placement is the best placement resource as well.





Transition

- ◆ We have discussed MEPA and the Title IV-E State Plan. Are there any further questions?
- ◆ Now let's discuss Individualized Child/Youth Assessment, RCNO, and Placement Decisions



Individually Assessing A Child/Youth's Needs

Individualized Child/Youth Assessment, RCNO, and Placement Decisions

Trainer's Points



- P** Individual assessments are at the core of MEPA and Title VI and also are at the core of good social work practice: understanding the child; the child's history, needs, family situation, and personality.
- P** Ultimately MEPA and Title VI govern whether RCNO may be considered when making foster and adoptive placement decisions and, if so, how it may be considered.
- N** Basically, the individualized assessment examines who is this child and what does the agency need to do to facilitate the best placement for the child given all of the circumstances. This is the talking, the time, the conversations, the analysis, the developing case plans, and the placement decisions that workers make for children in the agency's care.
- N** The law does not impose a lot of structure on the social worker-child relationship. But where RCNO is involved, there is some structure and there are some requirements.
- P** When the Agency is making a placement decision for a child, the agency has the **flexibility** to determine which factors it will consider when individually assessing a child/youth as long as it does so in accordance with the law. HHS does not prescribe those factors.
- P** However, when it becomes apparent that the agency might need to consider RCNO, the agency:

 - P** **must** individually assess a child/youth to determine whether considering RCNO is in the best interests of the particular child or youth in light of the child/youth's unique circumstances.
 - P** **may not** rely or act upon generalizations about the child/youth's needs, based on the child/youth's membership in a particular RCNO group.
 - P** **may not** routinely consider RCNO during the individualized assessment.



- P** Some factors that may be relevant to an individualized assessment include:

 - P** the child/youth's unique or unusual history related to RCNO (e.g., traumatic experiences).
 - P** any other factors that the caseworker believes are relevant to the individualized assessment process based on the worker's knowledge and understanding of the child or youth.
- N** What is a traumatic experience? Maybe a child/youth who had been traumatized repeatedly by people of a specific RCNO; in such a case, the agency may want to consider whether it should consider that traumatic experience as part of the placement decision process.
- N** What is important to take from this is that there would need to be something unique that would lead the agency to consider RCNO. It cannot be the more generalized concept that RCNO is important to consider when making a placement decision.
- N** We cannot delineate the circumstances under which the agency can consider RCNO during the individualized assessment.
- N** *NOTE TO TRAINER: When you are training States, you **cannot** go beyond this bullet on the slide to provide other examples that could illustrate unique or unusual history—stick to the slide.*
- P** Some States have a law or policy that establishes an age at which a child or youth may/must consent to adoption.
- P** 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 or refusal without violating MEPA or Title VI. (Find out ahead of time if the State has an age of consent and, if so, what the age is.)
- P** However, even if the youth meets the age to consent and wishes to consider RCNO, it is important that the agency conduct the individualized assessment process.
- P** The agency should document its determination of whether the youth's request/refusal is in the youth's best interest.
- N** *NOTE TO TRAINER: If you are training in a State, make sure to find out in advance whether the State has an age to consent to adoption, and address that fact during your training.*

- P** If the State does not have such a law or policy, or if a child/youth does not meet a State's age to consent:

 - P** the child/youth's request may not determine the placement, and the agency should be very cautious in considering such a preference.
 - P** 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.
- N** We recognize that this can sometimes pose a difficult practice issue for workers, especially if an older youth makes a request related to RCNO. If the State doesn't have the age to consent law or policy, the agency **must** go through the full individualized assessment process and determine whether consideration of RCNO is in the youth's best interest. The youth's request cannot be determinative in such a circumstance as it can when a youth lives in a State where there is an age to consent to adoption law or policy.
- N** Agencies can experience problems if they consider the RCNO of a very young child based on the stated preference of the child for placement with a family of a particular RCNO.
- P** 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/youth's placement decision.
- P** In most cases, a child/youth'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.
- N** How do you conduct an individualized assessment? In most cases, it will be the regular process of talking to the child or youth to figure out what needs the child/youth has. When it becomes apparent that RCNO may need to be considered as part of the placement decision, the agency needs to proceed cautiously.
- N** An outside consultation can serve two purposes: It can help the agency ascertain whether RCNO really is necessary to consider in order to advance the child/youth's best interests, and it can help explain the agency's actions and decisions.

- P** If an individualized assessment reveals that it is necessary to consider RCNO in order to advance the best interests of a particular child/youth, the agency may do so, but only to the extent necessary to advance the best interests of the child/youth.
- P** 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/youth'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.
- N** What does the second bullet mean? Here is the bottom line: If the individualized assessment reveals the need to consider RCNO, that just gets RCNO on the table along with everything else it is going to consider. It does **not** mean that all of the other factors take a back seat to RCNO or can be ignored. For example, it could be that RCNO is one thing to consider, but the child/youth's therapeutic needs have to predominate. Or, it could be that the RCNO needs must predominate. Either way, the agency should make sure it documents the way it balances any competing factors that it needs to consider.

Individualized Assessment, RCNO and Distinguishing Between Placements

Trainer's Points

- P** Unless the individualized assessment reveals the need to do so, the agency:

 - P** *May not* use RCNO to distinguish between two or more acceptable placements.
 - P** *May* identify differences between and among families who are equally well-suited to provide care to a child/youth that do not involve consideration of RCNO.
- N** *NOTE TO TRAINER: Ask participants: For those of you who have had to distinguish between and among resource families, what are some characteristics you have used? It is important to frame these laws in terms of making good practice decisions for children/youth.*

- N** More generally, MEPA and Title VI are about making good placement decisions that advance a child/youth's best interests. What types of issues do you consider, other than RCNO, to determine a good placement decision for a child or youth? These are the types of issues you should consider when making a placement decision when a parent is considering providing care for a child/youth of a different RCNO.

Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 9, MEPA Case Scenario B**.
- ☐ We will assign each team the case scenario. Each team has 15 minutes to answer the following questions:
 - P** Are there any issues that you see in this case scenario?
 - P** When an agency has several prospective families that might be suitable for 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?
 - P** Are there any circumstances where the child/youth's RCNO would be an appropriate consideration?

Trainer's
Points



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?



Transition

- ◆ We have discussed Individualized Child/Youth Assessment, RCNO, and Placement Decisions. Are there any further questions?
- ◆ Now let's discuss Culture and Cultural Competence, and RCNO-Competence.





Culture, Cultural Competence and RCNO-Competence

Trainer's Points

Culture and Cultural Competence

- N** Let's turn our attention to culture and cultural competence. This is one of the stickiest issues when we talk about MEPA/Title VI and placement decisions because we recognize that there is wide disagreement in the field about whether agencies should assess parents for cultural competence before placing a child in the parents' care. But, we need to understand how the law treats these issues, and how you have to practice in light of the law.
- P** MEPA and Title VI do not address the consideration of culture in placement decisions, and Health and Human Services does not define it.
- P** An agency may not use "culture" to replace or serve as a proxy for routinely considering RCNO, which is prohibited.
- N** The culture as a proxy for RCNO—usually race—concept can be confusing because in regular conversation, we often use race and culture interchangeably. But, when talking about placement decisions in the context of MEPA and Title VI, we cannot use them interchangeably, and it is important that when talking with agencies, you treat the concepts of "culture" and "RCNO" in very different ways.
- N** Where does this come up? Mostly in terms of the home study process, which we'll talk about in a few minutes.
- P** Some acceptable, non-discriminatory cultural issues to discuss with a family during a home study may include holidays, ability to communicate, religion or food.
- N** *NOTE TO TRAINER: If you are training States, you also cannot define culture, no matter how tempting. I know there are definitions out there and there is a commonly understood notion of what culture is, but HHS has not defined it.*



RCNO-Competence and Culture

- Ⓟ An agency may not assess a family's or parent's ability to parent a child/youth of a particular RCNO through the use of a cultural competence test.
- Ⓟ An agency should be cautious when assessing or considering a child/youth's or family's "culture" on a home study form or elsewhere.
- Ⓝ Often assessments of "culture" really are about RCNO and usually race. This is prohibited.

Large Group Discussion

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 10, MEPA Case Scenario C**.
- ☐ Have the participants review the case scenario and discuss the following:
 - Ⓟ 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?

Trainer's
Points



Handout 10



MEPA Case Scenario C

Donnie, a 3-year-old–bi-racial (Hispanic and Asian) child, has lived with the Riveras 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?

At 3, it is unlikely that Donnie would have defined needs that relate to him being Mexican. If the agency thought that there was something unique that required the agency to consider RCNO, the agency would need to make an individualized assessment and figure out what about the situation was so unique that it would need to consider RCNO.



Trainer's Points

Assessing RCNO-Competence

- P** An agency **may not assess**, or ask prospective parents to assess, whether they are competent to parent a child/youth whose RCNO differs from that of the parents. Throughout a family's interaction with the agency, an agency may not ask or consider:
 - P** Why a family wants to parent across RCNO lines.
 - P** What a family knows about RCNOs different from its own.
 - P** Whether a family's activities reflect a knowledge of or appreciation for the RCNO of the child/youth the family wishes to parent.
- N** This may also come in the form of requesting that the parents complete a "transracial plan," which is prohibited. Make sure that if this is a requirement in your State, you let administrators know and make sure you do not ask parents to complete such a plan as it violates MEPA/ Title VI.
- P** An agency:
 - P** **May not** require prospective parents to take different or extra steps in order to parent a child/youth who is in foster care on the basis of the parents' or the child/youth's RCNO.
 - P** **May not** single out parents who want to parent across RCNO lines or require them to learn about a different RCNO.
- N** This could be in the form of extra classes, detailed plans, even be extra questions on the home study form—all of which are prohibited.

Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 11, MEPA Case Scenario D**.
- ☐ We will assign each team the case scenario. Each team has 15 minutes to answer the following questions:

Trainer's
Points



Handout 11





- Ⓟ 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 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?





Transition

- ◆ We have discussed Culture, Cultural Competence, and RCNO-Competence. Are there any further questions?
- ◆ Now let's discuss assessment and preparing prospective resource families.



Assessing and Preparing Prospective Resource Families

Trainer's Points



Assessing Prospective Resource Families

- P** An agency may not create or allow a different child welfare process to which parents who wish to foster or adopt a child/youth of a different RCNO are subject, for example:
 - P** A longer or more invasive home study process; for example, examining issues for those who want to parent across RCNO lines that the agency does not examine for same-RCNO placements.
 - P** Requests that are specific to families who plan to parent across RCNO lines; for example, requiring parents to develop a trans-RCNO parenting plan.
 - P** Requests that a prospective parent learn about a different RCNO in advance of parenting such a child/youth; for example, requiring a family to purchase or review specific material or interact with individuals of a particular RCNO.
- N** We sometimes call this a two-tiered process, where people are subjected to more, different or more invasive questions or assessments based on their or the child/youth's RCNO.

Preparing Prospective Resource Families

- P** An agency may offer training to prospective parents about parenting a child/youth of a different RCNO if:
 - P** It is offered to **all** parents, regardless of whether the parents plan to foster/adopt a child/youth of a different RCNO.
 - P** Participation in the training is not a precondition only for parents who want to pursue a trans-RCNO placement.
- P** Training **may** provide information to parents that will help them care for their child/youth, including information about hair care or other personal care issues.



- N** Let's just be honest: the hair care issue can be a significant one. We understand that some agencies believe that they cannot help parents learn how to care for children for whom the parents are providing a home. This is not true—if a parent needs help learning about hair care or lotion, or anything else that will help them care for the child/youth, the agency can offer information that can be helpful. What the agency cannot do, however, is assume that certain parents do not already know how to care for a child or youth, or cannot learn. Nor can an agency use a parent's request for training or help as a reason to screen out the parents from providing care to a child of a specific RCNO.
- P** An agency may offer trans-RCNO parenting information to prospective parents **who request it** but the agency must ensure that:

 - P** Information is consistent with MEPA and Title VI.
 - P** Information is provided regardless of the prospective parent's or the child or youth's RCNO.
 - P** A prospective parent is not pressured to receive such information, even if the parent expresses interest in parenting across RCNO lines.
 - P** It is not used as an assessment or home study tool.
- P** An agency may offer trans-RCNO parenting information to prospective parents **at its own discretion** so long as:

 - P** the information is made available in the context of preparing a parent, and not assessing a parent's capacity to parent a child/youth of a different RCNO.
 - P** consideration of the information or participation in related services is not a precondition for parents who are of a certain RCNO or who want to pursue a trans-RCNO foster or adoptive placement.
- P** In such instances, an agency may prepare a prospective parent to foster or adopt a child/youth of a different RCNO by:

 - P** asking parents to describe their questions or concerns.
 - P** connecting parents with helpful resources.
 - P** offering post-placement services or support for parents who would like such services; for example, support or social groups.

N Agencies should be very cautious when offering such information to a prospective parent, even in the context of preparing the parent. It is critical that the information is offered in the context of preparing the parent, and the agency must ensure that it does not offer trans-RCNO parenting information only the basis of the child or parent's RCNO.

P An agency **may**:

P tell parents whether the children/youth in care do/do not have the characteristics that the parents are seeking; for example, age of available children/youth; RCNO of available children and youth; and special needs of available children/youth).

P ask prospective parents whether they will consider providing a home for a child(ren) whose characteristics reflect the children/youth for whom homes are needed.

P discuss with parents the challenges that may arise when parenting a child/youth whose characteristics differ from the characteristics that the parents originally sought.

P An agency **may not**:

P discourage parents from pursuing a trans-RCNO placement.

P require parents to participate in any training related to RCNO unless such training is required of all parents.

N Discouraging a placement could come in different forms. It could be an agency telling the parents how difficult it could be to parent a child/youth of a different RCNO and this is a tricky area because there can be a thin line between realism and discouraging or dissuading a parent.

N How are some ways that an agency might subtly discourage trans-RCNO placement? This goes back to understanding our own personal biases so that as a worker, you do not intentionally or unintentionally dissuade a parent from pursuing a trans-RCNO placement.

Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 12, MEPA Case Scenario E – Home Study Exercise**.



Team Activity



Handout

Handout 12

- We will assign each team the sample home study. Each team has 15 minutes to answer the following questions:
- 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 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.

(continued on next page)



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.

(continued on next page)



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 Eco Map 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?



Trainer's Points

Concerns about Prospective Resource Parents

- Ⓟ An agency may decline to place a child/youth with prospective parent's whose comments or beliefs make clear that placing children/youth of a specific RCNO with the prospective parent is not in the best interests of those children/youth.
- Ⓟ Where a family expresses prejudice about people of a certain RCNO, but still wishes to foster or adopt children/youth of that RCNO:

 - Ⓟ An agency should delve further into the issues.
 - Ⓟ If the agency believes that the parent should not parent any children/youth 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/youth's best interest, including a decision to not place a child/youth of a certain RCNO with a family, does not violate MEPA or Title VI.
- Ⓝ This is really important. HHS is not asking or requiring agencies to place a child or youth with a family who is not in the child/youth's best interest. Clearly, a family that expresses prejudice about the RCNO of the child or youth they want to parent warrants close consideration and review before placing the child—common sense. But, remember: this does not mean that it is okay to have concerns about all families that want to provide care across RCNO lines, it must be on an individual basis.

Biological Parent Requests

- Ⓟ For both voluntary and involuntary removals:

 - Ⓟ An agency **may not** consider or honor the request of parents or legal guardians to place their child/youth with foster or adoptive parents of a specific RCNO.
 - Ⓟ This applies to birth parents who are considering placing an infant for adoption.

Prospective Parent Requests

- P** Prospective parents may make requests about any characteristics they want in a child/youth, including RCNO.
- P** Agencies are not required to place a child/youth of a particular RCNO with a parent who has indicated that the parent does not want to parent a child/youth of that RCNO.
- P** Agencies must be as flexible with prospective parents' requests related to RCNO of a child/youth for whom they will provide a home as it is with parents' requests related to other characteristics of a child/youth. If an agency presents children/youth whose characteristics do not match the parent's requests, the agency must be similarly flexible with presenting children/youth whose RCNO does not match the parent's request.
- N** What is a problem is that often agencies ask parents to stretch the characteristics that the parents seek for characteristics or categories other than RCNO. So if a parent asks for a child or youth with no special needs, the agency might come back and say well, we have a child/youth with mild special needs. Or, if the parent wants a child age 0-2 and there is a 4-year-old, the agency might ask the parents to consider the 4-year-old. But, agencies often don't ask parents to "stretch" around RCNO (usually race). Treating RCNO differently from other characteristics can give rise to a MEPA/Title VI violation.

Large Group Discussion

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 13, MEPA Case Scenario F**.
- ☐ Have the participants answer the following questions:
 - P** Must the agency show all the children/youth in order to comply with MEPA/Title VI? Why or why not?

Trainer's
Points



Handout 13



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?

No. The parents can state their preferences and the agency can honor them. The prospective parents are not bound by MEPA/Title VI.

That said, the agency should make sure it documents the parents' statements verbatim and give the parents every opportunity to broaden the characteristics of children for whom they are willing to provide care.



Transition

- ◆ We have discussed Assessment and Preparing Prospective Resource Families. Are there any further questions?
- ◆ Now let's discuss Family and Community Ties.



Family and Community Ties

Trainer's Points

- The Child and Family Services Reviews (CFSR) assesses whether a State is making concerted efforts to maintain a child/youth's important connections, which may include ties to his or her community, neighborhood and school. Administration for Children and Families recognizes that in many cases it is a good idea to help a child/youth preserve those ties, especially when the child/youth 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/youth's important connections does not violate MEPA or Title VI.

Large Group Discussion

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 14, *MEPA Case Scenario G***.
- ☐ Have the participants answer the following question:
 - How should the agency proceed?



Handout 14



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?



Trainer's Points

Photo Listings

- P** An agency:

 - P** **may** identify or document the RCNO of a child/youth who is featured on an adoption web site, such as AdoptUsKids (www.adoptuskids.org).
 - P** **may** design and administer adoption listing web sites that allow prospective adoptive parents to search for child/youth profiles based on a child/youth's RCNO.
 - P** **must** treat RCNO in the same manner it treats other characteristics, including age, gender, and membership in a sibling group. For example, if an agency identifies a child/youth's RCNO on its web site, it must identify other characteristics, or if an agency allows prospective parents to search for children/youth by RCNO, it must allow prospective parents to search by other characteristics as well.
- N** The AdoptUsKids web site is a service of the Children's Bureau of the Administration of Children and Families, of the Department of Health and Human Services. It is a photo listing service for children available for adoption as well as of approved families available to adopt. The site also has information about adoption and adoption services.



Team Activity

Team Activity

- ☐ This activity is designed to allow participants the opportunity to apply the information learned during the training to specific case scenarios.
- ☐ Turn to **Participant's Handout 15, *MEPA Case Scenario H***.
- ☐ We will assign each team either Part I or Parts I, II, and III of the case study, if time allows. Each team has 15 minutes to answer questions following each part.



Handout

Handout 15

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?

Yes, worker can honor the Jones' preference because this is the type of child for whom the Jones' felt comfortable providing a home. This advances the best interests of the child. It is different from honoring the requests of birth parents because the Jones' will need to feel comfortable with the child they are going to parent. Note that the agency must provide continuous opportunities for the Jones' to reconsider and expand their preferences.

- How should the worker that heard the Jones' comments proceed? What should the worker be considering?

Answer for bullets 2 and 3: Record the comments verbatim. The worker could explore the comments further with the Jones', but because they are described as inflammatory and derogatory, such further exploration is not required because it is enough to conclude that the Jones' cannot advance William's best interests. Also note that if the agency has developed a peer review or peer-supervisor review process for issues related to RCNO, this would be a good time to use it and discuss the issues that have arisen.

- 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?

This changes things—this would be a statement to explore with the Jones' (what do they mean? How might their views impact William?). The agency should be cautious, diligent about exploring the statement and remember to document responses carefully. Automatically screening out the family based on such a statement could raise a MEPA/Title VI violation. Failing to explore the statement could raise practice issues. So the agency needs to walk a fine line and make sure to address the issue without running afoul of the law.

(continued on next page)



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?

*The delay of William's placement could be an individual violation (we'll talk later in the presentation about the different types of violations) **if the agency is keeping him in a foster care placement where the agency could be moving him to permanency, based on an unsubstantiated determination that the family is unsuitable because of their or William's race.** The agency worker is taking steps to discuss the situation with supervisors, etc., but at the same time, the agency cannot allow the child to linger in foster care. Admittedly, some of this is subjective (how much discussion with supervisors is prudent versus when does it become a delay), but at this point, there is not an individualized assessment that suggests that William needs a placement that is based on RCNO.*

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

Once the agency starts working with the Walkers, the agency is heading towards an individual violation against the Jones' because the agency is about to deny them the opportunity to provide care. If the agency had determined that the Jones' cannot advance William's best interests, the agency needs to act on that and move him. But by keeping him there until a same RCNO placement comes along, and then moving him, it looks like both a delay of placement and a denial of opportunity. The agency needs to make a decision, document it and place the child accordingly.



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.

Cultural and heritage needs are being used as a proxy for RCNO; the issue that the agency was considering was not so much cultural or heritage needs, but rather was concerned about the Jones' statements suggested that they may not be able to advance William's best interests.

- 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?

This is important: think about this from the perspective of someone other than a social worker. The documents should tell a story and demonstrate that the agency did everything it is supposed to do. TRAINER: Ask the trainees to list some documents (e.g., home study; case notes; dates, times, when, where, method of discussions with family; notes that reflect a knowledge of the legal requirements; training offered to the parents; if the agency has a matching tool that is used to measure a family's skills against a child's needs). Anything else?





Transition

- ◆ We have discussed Family and Community Ties. Are there any further questions?
- ◆ Now let's discuss the Respective Roles of the Office for Civil Rights (OCR), the Administration for Children and Families (ACF) and the Enforcement of Title VI and MEPA.



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

Trainer's Points

Trainer's
Points

- 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/youth or families on the basis of RCNO.
- OCR and ACF administer different statutes and have different, complementary responsibilities.

OCR

- 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.
 - may initiate proceedings to terminate Federal financial assistance or refer a case to the Department of Justice where compliance cannot be secured through voluntary means, .
 - provides technical assistance to help ensure voluntary compliance with the law.

ACF

- ACF:
 - administers Titles IV-B and IV-E of the Social Security Act.
 - ensures that States comply with their title IV-B and IV-E State plan requirements, including the diligent recruitment provision and MEPA.



- responds 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

- 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 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

- 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/youth in the State's care.
 - A *systemic violation*, which is a noncompliant law, policy, practice or procedure; for example, State law or policy that is inconsistent with MEPA; a home study form that requires or advises case workers to practice in a manner inconsistent with MEPA).

Enforcement of Title VI and MEPA – Individual Violations

- 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
 - 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

- 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 noncompliant laws and policies.

Enforcement of Title VI and MEPA – Appeals

- 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

- 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.

Enforcement of Title VI and MEPA – Examples of Violations

- OCR has found violations in cases where an agency:
 - manipulated a data system to broaden the search for children/youth with respect to all characteristics but race, when children/youth 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/youth 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.
- Ⓟ 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/youth.
- Ⓟ 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.

Trainer's
Points

Transition

- ◆ We have discussed the Respective Roles of the Office for Civil Rights (OCR), the Administration for Children and Families (ACF) and the Enforcement of Title VI and MEPA. Are any further questions?
- ◆ Now let's discuss Compliance Tips.



Transition



Compliance Tips: Document, Document, Document



Trainer's Points

- 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.
- 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; for example, whether the agency conducted the individualized assessment or sought the input of an outside professional.
 - whether the agency advised outside professionals that Federal law prohibits the routine consideration of RCNO.
 - whether the outside professional interviewed the child/youth 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/youth's best interests.
 - any documents that reflect the details of the selection or placement committee; for example:
 - Who was present?
 - Which families were presented
 - What discussions took place about families?
 - Why a family was/was not selected for a particular child/youth.



- When the agency declines to place a child/youth with prospective parents and the reason relates to RCNO, (for example, 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

- 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

- Other actions the State may take to facilitate compliance may be to:
 - 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.
 - 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

- 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.
- Keep current about information that ACF and OCR release about MEPA and Title VI on their web sites.



- Remember that ACF and OCR want to partner with your State to ensure that your child welfare system is:
 - fair to the children/youth and families who are involved with the child welfare system.
 - free from discrimination based on RCNO. We are here to help you prevent violations and help you correct them should they occur.
- Training and Technical Assistance are available through the *National Resource Center for Adoption*.
- E-mail: nrc@nrcadoption.org
- Phone: (248) 443-0306
- Training and technical assistance for recruitment T/TA is also available through the *National Resource Center for Recruitment at AdoptUsKids*.
- E-mail: NRCDR@adoptuskids.org
- Phone: (303) 726-0198

Legal, Regulatory and Policy Authority

- 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
- *Child Welfare Policy Manual*
http://www.acf.hhs.gov/j2ee/programs/cb/laws_policies/laws/cwpm/index.jsp
- ACYF-CB-PI-95-23 (10/22/95)
http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/pi9523.htm

Wrap-up and Evaluation

Directions

- ✓ Address any remaining parking lot issues. This time can also be used to collect state specific questions asked on index cards.



Trainer's Points

- Ⓟ We are now passing out a Training Reflection Feedback form to everyone. We ask that you please fill this form out before leaving. Thanks so much.



