

Mahoning County Children Services

Policies and Procedures for the Department of Placement Services

Adoption, Foster Care, and Residential Units

Statement of Assurance/Standards of Conduct

Rule:

OAC 5101:2-5 Child Services Agency Licensing Rules

OAC 5101:2-33-03 Procedure for Complaints of Alleged Discriminatory Acts, Policies or Practices
in the Foster Care or Adoption Process that Involves Race, Color or National Origin

OAC 5101:2-33-11 Multi-Ethnic Placement Act (MEPA) Agency Administrative Requirements (G)

OAC 5101:2-42-18.1 Non-Discrimination Requirements for Foster Care Placements

OAC 5101:2-48-13 Non-Discrimination Requirements for Adoptive Placements

OAC 5101:2-48-16 Adoption Pre-Placement and Placement Procedures

OAC 5101:2-48-05 (B) (18) Agency Adoption and Recruitment Plan

Philosophy:

This policy defines Mahoning County Children Services' expectations regarding Employee and Contractor/Provider's Compliance with MEPA and Title VI of the Civil Rights Act of 1964.

Mahoning County Children Services has established the following Standards of Conduct with regard to the performance of employees and contractors/providers related to compliance with the Multi-Ethnic Placement Act of 1994 as amended by Section 1808 of the Small Business Job Protection Act of 1996, 42 U.S.C. 622(b)(9), 671(a)(18), 674(d) and 1996(b) (MEPA) (1/2/06) and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, (1/2/06) as they apply to the foster care and adoption process (Title VI).

Implementation:

1. MEPA and Title VI prohibit the following actions, and more specifically, Mahoning County Children Services, any employees, or contractors of the Mahoning County Children Services *shall not*:
 - a. Intimidate, threaten, coerce, or in any way discriminate or retaliate against any person who has filed an oral or written complaint, testified, assisted, or participated in any manner in the investigation of any alleged violation of MEPA and Title VI including:

- (i) Any potential or actual foster family;
 - (ii) Any employee of a PCSA (public children services agency), PCPA (private child placing agency), or PNA (private non-custodial agency); or
 - (iii) Any employee of another agency or entity with responsibilities regarding the care or placement of a child in the temporary or permanent custody of the agency such as a guardian ad litem or court appointed special advocate (CASA) volunteer.
- b. Participate in any retaliatory conduct including:
- (i) Reducing the amount of foster care payments which a family should receive based on the child's needs; or
 - (ii) Submitting an unjustified negative evaluation.
- c. Deny any person the opportunity to become a foster caregiver or an adoptive parent on the basis of race, color or national origin of that person, or of the child involved; or
- d. Delay or deny any placement of a child in foster care or for adoption on the basis of the race, color or national origin of the foster caregiver(s), of the adoptive parent(s) or of the child involved.
2. The following actions by a PCSA, PCPA, or PNA *are permitted* under MEPA and Title VI:
- a. Asking about and honoring any initial or subsequent choices made by prospective foster or adoptive parents regarding what race, color, or national origin of child the prospective foster or adoptive parents will accept.
 - b. Honoring the decision of a child over 12 years of age to not consent to an adoption, unless the court finds that the adoption is in the best interest of the child and the child's consent is not required.
 - c. Providing information and resources about fostering or adopting a child of another race, color or national origin to prospective foster or adoptive parents who request such information and making known to all families that such information and resources are available.
 - d. Considering the request of a birth parent(s) to place the child with a relative or non-relative identified by name.

- e. Considering the race, color or national origin of the child as a possible factor in the placement decision when compelling reasons serve to justify that the race, color, or national origin need to be a factor in the placement decision (see Considerations and Actions for RCNO). Even when the facts of a particular case allow consideration related to the race, color, or national origin, this consideration shall not be the sole determining factor in the placement decision.
 - f. Promoting cultural awareness, including awareness of cultural and physical needs that may arise in the care of children of different races, ethnicities, and national origins as part of the training which is required of all applicants who seek to become foster or adoptive parents.
 - g. Documenting verbal comments verbatim, or describing in detail any other indication made by a prospective foster or adoptive family member living in the household or any other person living in the household reflecting a negative perspective regarding the race, color, or national origin of a child for whom the prospective foster or adoptive family has expressed an interest in fostering or adopting. The documentation shall indicate whether those comments were made before or after completion of the cultural diversity training which is required of all foster and adoptive applicants. Documentation shall be included in the family's homestudy, update, or an addendum to the homestudy or update prior to consideration of placement or a matching conference. The matching committee may consider the information in determining if the placement is in the child's best interests.
3. The following are examples of actions prohibited by MEPA and Title VI:
- a. Using the RCNO of a prospective foster caregiver or adoptive parent to differentiate between adoptive placements for a child.
 - b. Honoring the request of a birth parent(s) to place a child with prospective foster or adoptive parent(s) of a specific RCNO, unless the birth parent(s) identifies a relative or non-relative by name and that person is found to meet all relevant state child protection standards, provided that the agency determines that the placement is in the best interests of the child. Requiring a prospective adoptive family to prepare or accept a transracial foster care or adoption plan.
 - c. Using "culture" or "ethnicity" as a proxy for race, color or national origin.
 - d. Delaying or denying placement of a child based upon the geographical location of the neighborhood of the prospective foster or adoptive family whenever geography is being used as a proxy for the racial or ethnic composition of the neighborhood, the demographics of the neighborhood, the presence or lack of presence of a significant number of persons of a particular RCNO in the neighborhood or any similar purpose.

- e. Requiring extra scrutiny, additional training, or greater cultural awareness of individuals who are prospective foster caregivers or adoptive parents of children of a different RCNO than required of other prospective foster caregivers or prospective adoptive parents.
- f. Relying upon general or stereotypical assumptions about the needs of children of a particular RCNO. Relying upon general or stereotypical assumptions about the ability of prospective foster caregivers or prospective adoptive parents of a particular race, color or national origin to care for or nurture the sense of identity of a child of another RCNO.
- g. “Steering” prospective foster caregivers or prospective adoptive parents away from parenting a child of another RCNO. “Steering” is any activity that attempts to discourage prospective foster or adoptive parents from parenting a child of a particular race, color or national origin.

4. Considerations and Actions for RCNO:

- a. If a medical or psychological evaluation, school record, or other material documented in the case record, including statements made by the child to a caseworker, indicate that there may be compelling reasons to consider needs the child may have regarding race, color, or national origin in the placement process, the agency shall determine if the child should be referred for an assessment of whether the child has individual needs involving race, color, or national origin.
- b. One of the following licensed professionals shall conduct the assessment regarding race, color or national origin:
 - (i) A licensed child psychiatrist,
 - (ii) A licensed child psychologist,
 - (iii) A licensed independent social worker,
 - (iv) A licensed professional clinical counselor.

The licensed professional conducting the assessment shall not be employed by the agency making the referral.

- c. At the time of the referral, the agency shall initiate and subsequently complete the JFS01688 Individualized Child Assessment using the following procedures:
 - (i) The caseworker shall complete Section I of the JFS01688 and subject the JFS01688 and all relevant medical or psychological evaluations, school records, or other material documented in the file to the caseworker’s supervisor and the agency MEPA monitor.

- (ii) If both the supervisor and the MEPA monitor determine that the documented material contained in the case file indicates there may be compelling reasons to consider the needs for the child may have regarding RCNO in the placement process, the child shall be referred within ten (10) days of the signature of the caseworker for an individual assessment as indicated above. At the time of the referral, the agency shall forward to the licensed professional the following documents: the original JFS01688, all relevant medical or psychological evaluations, and school records and all other relevant material documented in the child's case file.
- (iii) The agency shall request in writing that the licensed professional complete and sign Section II of the original JFS01688 and return it within sixty (60) days to the agency with a copy of the requested assessment attached.
- (iv) The licensed professional shall determine whether the child has needs involving RCNO and any other needs of a psychological or behavior nature and, if so to specify what those needs are and how those needs may impact a potential substitute care placement.
- (v) A licensed professional shall not complete an assessment until the agency has provided the licensed professional with copies of the following: the JFS01607 MEPA Educational Materials, the JFS01611 Non-Discrimination Requirements for Foster Care and Adoptive Placements, and a copy of O.A.C. Rules 5101:2-42-18.1, 5101:2-48-13, and 5101:2-48-16.
- (vi) The licensed professional shall sign the JFS01608 Licensed Professional Statement acknowledging receipt of the materials. A copy of the signed JFS01608 shall be submitted to ODJFS within ten (10) days after receipt by the agency.
- (vii) The agency shall keep the JFS01608 and attach a copy to each JFS01688 the licensed professional completes. The agency shall submit a copy of the JFS01608 to ODJFS ten (10) days after receiving it.
- (viii) Each completed JFS01688 shall remain in effect for twelve (12) months from the date of the final decision as documented on the JFS01688. If it has been determined that RCNO should be a factor considered in the child's placement, an updated JFS01688 and assessment shall be completed prior to the twelve (12) month expiration date. If it has been determined that RCNO should not be a factor considered in the child's placement, an updated JFS01688 and assessment is not required prior to the twelve (12) month expiration date. In such instance, the agency may update the JFS01688 and assessment as deemed necessary.

- (ix) The agency shall forward a copy of each completed JFS01688 and the assessment of the licensed professional to ODJFS within ten (10) days of receiving it.
- (x) The JFS01688 shall be presented as part of the placement decision-making process.
- (xi) The agency shall maintain in the child's case file the completed original JFS01688 and all medical or psychological evaluations, school records or other material documented in the file.

5. Enforcement of Discipline for Discriminatory Acts:

The agency shall provide a copy of the written MEPA Standards of Conduct to each employee or contractor who is engaged in the placement of children into foster care or for adoption, or engaged in the recruitment, assessment, approval, or selection of a foster caregiver or adoptive family. New employees or contractors shall receive a copy of the written standards of conduct within thirty (30) days of their hire date or the effective date of their contract from either the Personnel Officer or Program Administrator.

Should a MCCS employee engage in discriminatory acts, policies, or practices involving race, color or national origin in the foster care or adoption process as determined by the Ohio Department of Job and Family Services upon completion of the investigation conducted pursuant to Rule 5101:2-33-03 of the Ohio Administrative Code, said employee shall be subject to discipline procedures. Guidelines for corrective action can be found in the Mahoning County Children Services Personnel Manual or Article 18 – Corrective Action in the collective bargaining agreement between Mahoning County Children Services and CWA Local 4300.

Should a contractor engage in discriminatory acts, policies, or practices involving race, color or national origin in the foster care or adoption process as determined by ODJFS upon completion of the investigation, pursuant to Rule 5101:2-33-03 of the O.A.C., said contractor shall be subject to the penalties and sanctions as determined by the Ohio Department of Job and Family Services pursuant to Chapter 5101:2-5 of the O.A.C. (when applicable) and possible termination of the contract with the agency.

MCCS employees and contractors/providers may not intimidate, threaten, coerce, discriminate against or otherwise retaliate against any individual who makes a complaint, testifies, assists or participates in any manner in an investigation related to alleged discrimination on the basis of race, color, or national origin in the foster care or adoption process.

Should an investigation conducted by ODJFS, pursuant to Rule 5101:2-33-03 of the O.A.C., result in a finding that an agency employee or contractor engaged in discriminatory acts, policies, or practices, MCCA will submit a corrective action plan to ODJFS within thirty (30) days of the notification of the findings of the investigation. The corrective action plan requires that specific steps are defined by MCCA to prevent future violations by employees or contractors.

Related Information and Forms:

JFS01607 MEPA Educational Materials

JFS01608 Licensed Professional Statement

JFS0-1611 Non-Discrimination Requirements for Foster Care and Adoptive Placements

JFS01688 Individualized Child Assessment

JFS01688-I Individualized Child Assessment Instructions

JFS02333 Discrimination Complaint

JFS02333-I Discrimination Complaint Instructions

MEPA Monitor Orientation

Red Flags Handout (3 pages)