



Office of Children and Family Services

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Administrative Directive

Transmittal:	15-OCFS-ADM-05
To:	Commissioners of Social Services Executive Directors of Voluntary Authorized Agencies
Issuing Division/Office:	Child Welfare and Community Services
Date:	March 3, 2015
Subject:	Multiethnic Placement Act of 1994 as Amended by the Interethnic Adoption Provisions of 1996
Suggested Distribution:	Child Welfare Executive and Supervisory Staff Adoption Staff Foster Care Staff Legal Staff Staff Development Coordinator
Contact Person(s):	Any questions concerning this release should be directed to the appropriate Regional Office, Division of Child Welfare and Community Services: Buffalo Regional Office-Dana Whitcomb (716) 847-3145 Dana.Whitcomb@ocfs.ny.gov Rochester Regional Office-Karen Buck (585) 238-8201 Karen.Buck@ocfs.ny.gov Syracuse Regional Office-Sara Simon (315) 423-1200 Sara.Simon@ocfs.ny.gov Albany Regional Office-Kerri Barber (518) 486-7078 Kerri.Barber@ocfs.ny.gov Spring Valley Regional Office-Yolanda Désarmé (845) 708-2498 Yolanda.Desarme@ocfs.ny.gov New York City Regional Office-Raymond Toomer (212) 383-1788 Raymond.Toomer@ocfs.ny.gov Native American Services-Heather LaForme (716) 847-3123 Heather.LaForme@ocfs.ny.gov
Attachments:	Compliance Tips: p.10 Frequently Asked Questions: pp.11-12 MEPA Desk Aid – Following p.12

Filing References

Previous ADMs/INFs	Releases Cancelled	NYS Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
96-ADM-2 98-INF-8 98-INF-10		18 NYCRR §§ 420.2 421.16 421.18 430.11	Title VI of the Civil Rights Act of 1964 Social Security Act - Section 471(a)(18)		Multiethnic Placement Act of 1994 (PL 103-382) The Small Business Job Protection Act of 1996 (PL 104-188) Indian Child Welfare Act of 1978 (ICWA) ACYF-IM-CB-98-03

I. Purpose

The purpose of this Administrative Directive (ADM) is to provide local departments of social services (LDSSs) and voluntary authorized agencies (VAs) information on the requirements of the Multiethnic Placement Act of 1994 (MEPA), as amended by the Interethnic Adoption Provisions (IEP) of The Small Business Job Protection Act of 1996. In June of 2014, the New York State Office of Children and Family Services (OCFS) received technical assistance from the federal Children's Bureau National Resource Center for Adoption that included a train-the-trainer course for understanding and complying with MEPA and IEP. OCFS staff who participated in the train-the-trainer are equipped to provide MEPA training. The guidance and best practice information provided in this ADM are based on that training.

II. Background

Title VI of the federal foster. Title VI is a broad civil rights statute that prohibits agencies receiving federal financial assistance from discriminating against children and adults on the basis of race, color or national origin (RCNO). RCNO is defined as Race (Asian, Black or African American, White, Native Hawaiian or other Pacific Islander, and American Indian or Alaska Native), Color (skin tone or complexion), and National Origin (a child's or parents ancestry). Race categories are established by the federal Office of Management and Budget and are used by the Administration for Children and Families (ACF) of the federal Department of Health and Human Services and Office for Civil Rights (OCR) to assess compliance with Title VI and MEPA.

MEPA, enacted in 1994, specifically applied the civil rights laws to child welfare and made it clear that discrimination would not be tolerated when making foster care and

adoptive placement decisions. MEPA provisions are intended to decrease the length of time children wait to be adopted, and facilitate identification and recruitment of families to meet the needs of children in care.

In 1996, MEPA was amended by IEP to again strengthen the prohibition against discrimination by removing misleading language and strengthening compliance and enforcement. IEP made it clear that RCNO may not be routinely considered in making placement decisions. It also stipulates that state laws and regulations, as well as agency policies and practices, must be consistent with current federal law.

III. Program Implications

The state, LDSSs, and VAs must comply with MEPA. These entities cannot have a stated or unstated policy requiring RCNO to be a primary or routine condition, or determining factor in the decision on the best foster or adoptive home for a child, or in the decision as to whether an applicant may become a foster or adoptive parent.

Federal law forbids basing decisions on RCNO, except in very limited circumstances where such consideration is necessary to achieve a compelling government interest. In child welfare cases such a circumstance is protecting the best interests of the child to be placed. The consideration of RCNO must be narrowly tailored to advance the best interests of the child and must be made on an individualized basis. How to determine the best interests of the child will be discussed in further detail within the individualized assessment section of this ADM.

Several provisions of MEPA apply to states and agencies receiving federal funding and having involvement in foster care or adoptive placements. Among the applicable major provisions of MEPA are the following:

- When making a foster care or adoptive placement decision, LDSSs and VAs are prohibited from delaying, denying, or otherwise discriminating, based on the parent or child's RCNO.
- Prohibits state agencies and other entities from categorically denying any person the opportunity to become a foster or adoptive parent solely on the basis of RCNO of the parent or the child who is in need of placement.
- Requires states to develop plans for the recruitment of foster and adoptive families who reflect the ethnic and racial diversity of children in the state for whom families are needed.
- Prohibits agencies from routinely considering RCNO in making placement decisions.
- Requires that any consideration of RCNO must be done on an individualized basis when special circumstances indicate that their consideration is warranted.
- Has no effect on the provisions of the federal Indian Child Welfare Act of 1978 (ICWA).

- Makes failure to comply with MEPA a violation of Title VI of the federal Civil Rights Act of 1964.

IV. Required Action

The laws and regulations discussed in this ADM have been in effect for many years, and the expectation is that agencies have implemented procedures in compliance with them.

LDSSs and VAs should verify compliance with provisions of MEPA in relation to the following policies and practices:

- Diligent recruitment of foster and adoptive parents;
- Foster and adoptive parent certification or approval;
- Individualized child assessment; and
- Foster care and adoptive placements.

Each of the above bullets is addressed in further detail below.

Diligent Recruitment of Foster and Adoptive Parents

LDSSs or VAs must conduct diligent recruitment by recruiting potential foster and adoptive parents who reflect the ethnic and racial diversity of children for whom homes are needed. They may conduct targeted recruitment activities by focusing efforts in neighborhoods and communities where families can be found to be a resource for the children in care. LDSSs and VAs who have a purchase of services contract with an LDSS for the operation of an adoption or foster boarding home program are required to update their Recruitment and Retention Plans annually, focusing on compliance with MEPA.

An effective diligent recruitment program compares the general population to the population of the children in care and targets the children who are overrepresented in care. In order to do this, LDSSs and VAs need to examine the following populations, broken down by race:

- The number of children in care;
- The number of children waiting to be adopted;
- The number of children aging out of care without permanency; and
- Length of time in care.

A diligent recruitment plan may include the following elements:

- A description of the characteristics of the children for whom homes are needed;
- Specific strategies to reach the individuals and communities that reflect the children in care, e.g., recruitment at community centers, religious establishments, school PTA meetings;
- Various methods for providing prospective foster and adoptive parents with all the information they need, e.g., radio announcements, pamphlets, television ads, and informational sessions;

- Strategies for maximizing access of prospective parents to the home study process, e.g., flexible hours to conduct home studies; and
- Strategies for the provision of training staff regarding working with diverse communities and dealing with linguistic barriers, e.g., utilizing interpreters, translating written information into different languages.

When conducting targeted recruitment, LDSSs or VAs must include the following activities:

- Allowing prospective foster and adoptive parents to participate in general recruitment activities, regardless of RCNO of the current targeted population;
- Accepting applications from prospective foster or adoptive parents who are not of the RCNO of the current targeted population;
- Accepting applications from prospective foster or adoptive parents interested in providing care to a child(ren) who is of a different RCNO than themselves; and
- Developing its own diligent recruitment plan or utilize the services of a private recruitment agency specializing in understanding a specific community or identifying families for specific groups of children.

The National Resource Center for Diligent Recruitment: <http://nr cdr.org> provides in-depth guidance on how to create and implement diligent recruitment programs, and can be used as a resource for LDSSs and VAs.

Foster and Adoptive Parent Certification or Approval

As noted above, one of the purposes of MEPA is to prevent discrimination on the basis of RCNO by facilitating the identification and recruitment of families able to meet the child(ren)'s needs. LDSSs and VAs **may not** deny any person the opportunity to become an adoptive or a foster parent on the basis of RCNO of the prospective adoptive or foster parent, or the child(ren) involved.

LDSSs or VAs **may** offer training to prospective foster or adoptive parents about parenting a child(ren) of a different RCNO as long as the training meets specific criteria:

- Training is offered to all parents;
- Training is not a precondition only for parents who want to parent a child(ren) of a different RCNO than their own;
- Information is provided about parenting a child(ren) of a different RCNO if the prospective foster or adoptive parents request it;
- Training can be provided at the LDSSs' or VAs' discretion as long as it is to prepare the prospective parents, not to assess their ability to parent a child(ren) of a different RCNO; and
- The consideration of the information cannot be a condition for the prospective parents who are a certain RCNO or who wish to parent a child(ren) of a different RCNO.

LDSSs or VAs **may not** use RCNO criteria as part of the prospective foster or adoptive parents' certification or approval process (i.e., home studies, conversations). This prohibition includes the following actions:

- Assess, or ask the family to assess, why the family wants to parent a child(ren) of a different RCNO than its own;
- Assess, or ask the family to assess, the family's knowledge about RCNOs different from its own;

- Require a prospective family to take different or extra steps in order to foster or adopt a child(ren) from foster care based on the family's or child(ren)'s RCNO (e.g., longer more invasive home study, extra classes, detailed plans); and
- Single out a family who wants to foster or adopt child(ren) of a different RCNO, or require them to learn about a different RCNO.

Individualized Child Assessment

In all placement decisions, the LDSS or VA needs to conduct an individualized assessment of each child in order to make a placement decision that is in the specific child's best interests. Individualized assessments are the cornerstone of good social work practice and are made after the worker analyzes conversations with the child and family, and assesses the child's history, needs, and personality. Basically, this process examines the specific child's needs and determines what the agency must consider to facilitate the best placement for this particular child. However, as stated above, decision-making on the basis of RCNO is forbidden except in **rare** circumstances where such consideration is protecting the best interest of the child to be placed. The agency may not rely or act upon generalizations about the child's needs based on the child's membership in a particular RCNO, nor routinely consider RCNO during the individualized assessment. The consideration of RCNO must be narrowly tailored to advance the best interests of the child and must be made on an individualized basis. If the individualized assessment reveals the need to consider RCNO, it does not mean that other factors are not also considered in addition to RCNO; rather, it means that RCNO can be considered in addition to any other relevant factors.

Several factors **may be** considered during an individualized assessment:

- The child's unique or unusual history related to RCNO (i.e., traumatic experience);
- The age of the child. In New York State a child 14 years of age or older is able to consent to his or her own adoption. If a child in this age group requests or refuses a placement based on RCNO, the agency may honor the child's decision without violating MEPA or Title VI. However, it is still important that the LDSS and VA conduct an individualized assessment when a child requests or refuses a placement based on RCNO to make sure it is in the child's best interest; and
- Any other factors that the caseworker believes are relevant to the individualized assessment based on the worker's knowledge and understanding of the child.

The LDSS and VA **can** request an outside consultation if it determines that RCNO needs to be considered in a placement decision. If the LDSS or VA consider RCNO in a placement decision, it is necessary that it is **clearly documented** in the case record, both the process of this decision and the reason for the decision to consider RCNO, including whether the decision was made to honor the child's request and how the agency made the best interests determination to honor the child's request.

Unless the individualized assessment determines the need to do so, the LDSS or VA **may not** use RCNO to decide between two or more acceptable placements. As outlined above, any decision to consider RCNO must be clearly documented in the case record.

Foster Care and Adoptive Placements

An agency's assessment of the capacity of particular adults to serve as foster or adoptive parents for specific children is at the heart of the placement process, and it is essential to determining what would be in the best interests of a particular child. All placement decisions and the process used to make such decisions, including those decisions made after hours, **must be documented**. LDSSs and VAs **must** have regular procedures for making all placement decisions, including emergency placements. These procedures may not consider RCNO unless an individualized assessment determines that RCNO should be considered as a factor in the placement decision. In addition, LDSSs and VAs **must** carefully document any situations where an individualized assessment of a specific child's needs indicates that RCNO should be and is used to make a placement decision.

If an appropriate placement exists for a child(ren), the agency **may not delay or deny** the placement of a child(ren) for any reason based on RCNO. Some examples of inappropriately denying or delaying placements based on RCNO include:

- Allowing the child(ren) to remain in shelter care or another temporary placement, or requiring a holding period to find a particular RCNO foster care placement;
- Removing a child(ren) who is doing well in a pre-adoptive placement in order to place the child(ren) into a family with a particular RCNO;
- Refusing to place the child(ren) with a foster or adoptive parent because the foster or adoptive parents' RCNO is different from the child(ren);
- Removing a child(ren) from a foster or adoptive parent because the parent or child(ren) is a specific RCNO; or
- Refusing to conduct a home study because the child(ren) is a specific RCNO.

Other Considerations

Culture vs. RCNO

MEPA and Title VI do not address the consideration of culture in placement decisions. Culture is often used as a proxy for RCNO, and at times, they are used interchangeably. LDSSs and VAs **may not** use the term "culture" to replace or serve as a substitute for routinely considering RCNO in placement decisions. To be compliant with MEPA, culture must be used very carefully and should be used to explore issues such as holidays, ability to communicate, religion, food or dietary preferences. For example, if a child(ren) is very involved in a particular culture's holiday celebrations and continuing these holiday celebrations is important to the child, the LDSS may try to match the child with a family who also celebrates the same holidays. Though cultural considerations may be included during an individualized assessment of a specific child(ren)'s needs, LDSSs and VAs **may not** assess a family's or parent's ability to parent a child of a particular RCNO through the use of a cultural competence test. LDSSs and VAs **may not** ask a family to develop a trans-RCNO parenting plan to parent across RCNO lines.

Parental Requests about Child(ren)'s Placements Based on RCNO

In either voluntary or involuntary removals, LDSSs and VAs **may not** consider or honor a request by the biological parent, legal guardian, or person legally responsible for a

child(ren) to be placed in a foster or adoptive home of a certain RCNO. This also applies to birth parents who are considering placing an infant for adoption.

An LDSS or VA **may** decline to place a child(ren) within a prospective foster or adoptive home if the prospective foster or adoptive parents express beliefs clearly indicating that placing a child(ren) of a specific RCNO with them would not be in the child(ren)'s best interests. This includes expressing prejudice against the child's RCNO. At any time prospective foster or adoptive parents who have expressed prejudice about a certain RCNO indicate an interest to foster or adopt child(ren) of that RCNO, the LDSS or VA **must** look very carefully at the intentions behind the request. With the decision made in this circumstance, as in any placement decision concerning RCNO, the LDSS or VA **must clearly document** how and why they came to the decision not to place a child(ren) of a specific RCNO in the potential foster or adoptive home, and who was involved in the decision making.

Adoption Photo Listing

OCFS regulation 18 NYCRR 420.2 requires that each child(ren) who received foster care from an authorized agency for a period of three months or more be referred to the New York State Adoption Service within ten working days following the end of the three months where the child(ren) is both legally freed for adoption and not in a pre-adoptive placement. This referral is submitted via the online Adoption Album computer application for inclusion in the OCFS Adoption Album listings of child(ren) available for adoption at <http://ocfs.ny.gov/adopt/disclaimer.asp>. The LDSS or VA submitting the referral **may** identify the RCNO of a child(ren) who is featured in the Adoption Album. If the LDSS or VA uses other photo listing sites, such as the AdoptUSKids website, <http://www.adoptuskids.org>, those sites **may** also identify the RCNO of the child so that families can search for children based on the child(ren)'s RCNO.

V. Additional Information

Attachments to this ADM include documentation and training compliance tips as well as frequently asked questions compiled from the Children's Bureau National Resource Center for Adoption train-the-trainer course manual. You will also find a MEPA desk aid to provide further guidance to LDSSs and VAs. It is recommended that LDSSs and VAs distribute the desk aid to their staff, especially those who make placement decisions. Frequently asked questions compiled by ACF can be found online at: http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy.jsp?idFlag=4

Agencies are encouraged to utilize the information in this ADM when evaluating their existing policies and procedures for compliance with MEPA. It is imperative that LDSSs and VAs share this ADM and accompanying documents with all workers as the information contained within can assist them with understanding and complying with MEPA.

Decisions made that do not comply with the provisions of MEPA can have significant ramifications for agencies, and the children and families they serve. In order to maximize compliance with the provisions of MEPA, OCFS recommends that agencies develop both a peer-review process to address circumstances in which a worker thinks it is necessary

to consider RCNO as part of the placement process and a supervisory chain of command process for managers to review and provide advice on MEPA.

OCFS appreciates that MEPA can be a complicated process and welcomes the opportunity to answer any questions that LDSSs and VAs may have. For assistance, please contact the appropriate OCFS Regional Office listed on the front of this ADM.

VI. Effective Date

This policy guidance becomes effective immediately upon issuance.

/s/ Laura M. Velez

Issued By:

Name: Laura M. Velez

Title: Deputy Commissioner

Division/Office: Division of Child Welfare and Community Services

MEPA Compliance Tips

Documentation:

If the agency decides to consider RCNO when making a placement decision, the agency must create a record of documentation that includes:

- Who was involved in making the decision to consider RCNO, including supervisors involved in making the decision;
- The agency's process for deciding to consider RCNO (individualized assessment and/or outside professional);
- If an outside professional was used, document whether the professional interviewed the child and/or reviewed the case file;
- Whether the agency advised outside professionals that federal law prohibits routine consideration of RCNO;
- 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(s) best interests;
- Any documents that reflect the detail of the selection or placement committee, e.g., who was present, which families were present, what discussions took place about families and/or why a family was/was not selected for a particular child; and
- When the agency declines to place a child with a prospective foster or adoptive parent due to RCNO, the agency must provide a detailed description in the case file, of the RCNO related reasons that make the prospective parents an unsuitable option.

Training for Public Agency Staff:

The agency may want to consider providing training on MEPA and Title VI to:

- Agency staff and contractors; and
- All new employees, with refresher courses on the law and policy available for previously trained staff; and
- All contracting entities to assist them with complying MEPA and Title VI in their daily practice.

Frequently Asked Questions Compiled
from the Child Welfare Policy Manual April 11, 2014 and
DHHS Release ACYF-IM-CB-98-03

Question: Please provide examples of what is meant by delay and denial of placement in foster care.

Answer: Following are some examples of delay or denial in foster care placements.

1. A white newborn baby's foster placement is delayed because the social worker is unable to find a white foster home. The infant is kept in the hospital longer than would otherwise be necessary and is ultimately placed in a group home rather than being placed in a foster home with a minority family.
2. A minority relative with guardianship over four black children expressly requests that the children be allowed to remain in the care of a white neighbor in whose care the children are left. The agency denies the white neighbor a restricted foster care license that will enable her to care for the children. The agency's license denial is based on its decision that the best interests of the children require a same-race placement, which will delay the permanent foster care placement. There was no individualized assessment or evaluation indicating that a same-race placement is actually in the best interests of the children.
3. Six minority children require foster placement, preferably in a family foster home. Only one minority foster home is available; however it is only licensed to care for two children. The children remain in emergency shelter until the agency can recertify and license the home to care for the six children even though a white foster home with capacity and a license to care for six children is available.
4. Different standards may be applied in licensing white versus minority households resulting in delay or denial of the opportunity to be foster parents.
5. Foster parent applicants are discouraged from applying because they are informed that waiting children are of a different race.
6. There are placement delays and denials when states or agencies expend time seeking to honor the requests of biological parents that foster parents be of the same race as the child.

Question: What are some examples of impermissible activities under MEPA?

Answer: Practices that clearly violate MEPA or Title VI include policies that:

- Establish time periods during which only a same race/ethnicity search will occur.
- Establish orders of placement preferences based on RCNO.
- Require caseworkers to specifically justify transracial placements; or
- Otherwise have the effect of delaying placements, either before or after termination of parental rights, in order to find a family of a particular race, culture, or ethnicity.

Question: If an action by an agency will not delay or deny the placement of a child, may the agency use race to differentiate between otherwise acceptable foster/adoptive placements?

Answer: No.

Question: Is it permissible under MEPA to target minority families that are representative of the children in foster care in our recruitment of potential foster and adoptive parents?

Answer: To comply with the “diligent recruitment” provision, MEPA allows for targeted recruitment to increase the number of minority families in the pool of families available to provide foster or adoptive homes. A Title IV-E agency may conduct targeted recruitment activities for a special population itself and/or it may utilize the services of a private recruitment agency based on that agency’s understanding of the needs of a specific community. However, targeted recruitment activities cannot be the only vehicle used by a Title IV-E agency for identifying families for minority children. The overall recruitment program of the Title IV-E agency must be open to all qualified families regardless of race, color, or national origin.

Question: Can agencies honor the requests of birth parents or guardians to place their children with foster or adoptive parents of a specific racial, national origin, ethnic and/or cultural group?

Answer: No, not even if a child was placed due to a voluntary placement agreement.

Question: Can agencies decline to place a child(ren) with a foster or adoptive parent of a different RCNO who has unsatisfactory cultural competency skills?

Answer: Good practice requires an assessment of the capacity of potential foster and adoptive parents to accommodate all the needs of a particular child. It is conceivable that in some instances race, color, or national origin would be a necessary consideration to achieve the best interests of a specific child as determined by an individualized assessment. Placement decisions must take place in a framework that assesses strengths and weaknesses of the prospective parents to meet all of the child’s needs. Prospective parents should be offered information sufficient to confirm or broaden their understanding of the types of children for whom they might most appropriately provide a home.

MEPA (Multiethnic Placement Act) Desk Aid

Diligent Recruitment of Foster and Adoptive Parents

May conduct recruitment activities for the purpose of recruiting foster or adoptive parents who reflect the racial and ethnic diversity of the children in foster care (targeted recruitment).

When conducting targeted recruitment Agencies **must**:

- ✓ Allow prospective foster and adoptive parents to participate in general recruitment activities regardless of RCNO of the current targeted population.
- ✓ Accept applications from prospective foster or adoptive parents who are not of the RCNO of the current targeted population.
- ✓ Accept applications from prospective foster or adoptive parents whom are interested in providing care to child(ren) who are of a different RCNO then they are.

May develop 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.

Suggestions for components in a diligent recruitment plan **can** be:

- ✓ A description of the characteristics of children for whom homes are needed.
- ✓ Specific strategies to reach the individuals and communities who reflect the children in care, e.g., recruiting at community centers, religious institutions, school PTA meetings, etc.
- ✓ Utilizing various methods for ensuring that all prospective foster/adoptive parents have all information needed, e.g., radio, pamphlets, informational sessions, partnering with local businesses to advertise.
- ✓ Strategies for all prospective parents to have access to the home study process, e.g., flexible hours to conduct home studies.
- ✓ Strategies for training staff to work with diverse communities and for dealing with linguistic barriers, e.g. utilizing interpreters, translating written information into different languages.

For more information on how to develop a Diligent Recruitment Plan:
National Resource Center for Diligent Recruitment: <http://nr cdr.org>

Foster and Adoptive Parent Certification or Approval

May not, directly or indirectly, deny to any person the opportunity to become an adoptive or a foster parent on the basis of RCNO of either the adoptive or foster parent or the child involved.

May not:

- ✓ Assess, or ask the families to assess, why the family wants to parent a child(ren) of an RCNO different from their own.
- ✓ Assess, or ask the families to assess, what the family knows about RCNO's different from their own.
- ✓ Require prospective families to take different or extra steps in order to foster or adopt a child(ren) from foster care on the basis of the families or child(ren)'s RCNO, e.g., longer more invasive home study, extra classes, detailed plans.
- ✓ Single out families who want to foster or adopt child(ren) of a different RCNO or require them to learn about a different RCNO.
- ✓ Subtly or overtly discourage prospective parents from considering parenting a child(ren) of a different RCNO than their own.

May:

- ✓ Offer training to prospective foster or adoptive parents about parenting a child(ren) of a different RCNO as long as such training is offered to all parents and participation in the training is not a precondition only for parents who want to parent a child(ren) of a different RCNO than their own.
- ✓ Provide information about parenting a child(ren) of a different RCNO if the prospective foster or adoptive parents request it.
- ✓ Provide information about parenting a child(ren) of a different RCNO as long as the information is made available to prepare the prospective parents, not to assess their ability to parent a child(ren) of a different RCNO. The consideration of the information cannot be a condition for the prospective parents who are a certain RCNO or who wish to parent a child(ren) of a different RCNO than their own.
- ✓ Inform the prospective parents whether the child(ren) in care meets the characteristics they are requesting.
- ✓ Discuss with the prospective parents whether they would consider parenting a child(ren) in care who may not meet their specified characteristics.
- ✓ Decline to place a child(ren) within a prospective foster or adoptive home if the prospective foster or adoptive parent's comments or beliefs clearly indicate that placing a child(ren) of a specific RCNO with them would not be in the child(ren)'s best interest.

Foster Care and Adoption Placements

May not delay or deny the placement of a child(ren) if an appropriate placement exists by:

- ✓ Allowing the child(ren) to remain in shelter care or another temporary placement or requiring a holding period to find a particular RCNO foster care placement.
- ✓ Removing a child(ren) who is doing well in a pre-adoptive placement in order to place the child(ren) into a family with a particular RCNO.
- ✓ Refusing to place the child(ren) with a foster or adoptive parent because the foster or adoptive parents' RCNO is different from the child(ren).
- ✓ Removing a child(ren) from a foster or adoptive parent because the parent or child(ren) is a specific RCNO.
- ✓ Refusing to conduct a home study because the child(ren) is a specific RCNO.

Individualized Assessments

Must conduct an individualized assessment on each individual child to determine how to facilitate the best placement for the child. In most cases, the best interest of a child(ren) can be served without consideration of RCNO. It would be rare for an individualized assessment of a child to reveal the agency needs to consider RCNO in a placement decision.

Some of these factors indicating that it is in the best interest of the child **may** include:

- ✓ The child's unique or unusual history related to RCNO (e.g., traumatic experience).
- ✓ If the child, 14 years or older, requests or refuses a placement based on RCNO, the agency may honor such request or refusal without violating MEPA or Title VI. However, an individualized assessment needs to be conducted to make sure it's in the child's best interest.
- ✓ Any other factors that the caseworker believes are relevant to the individualized assessment based on the workers knowledge and understanding of the child.

May request an outside consultation when they determine that RCNO needs to be considered in a placement decision.

If RCNO is considered in a placement decision, it **must be clearly documented** in the case record how and why the decision was made.

Culture vs. RCNO

May not use the term “culture” to replace or serve as a substitute for routinely considering RCNO in placement decisions.

May use culture to explore cultural issues such as holidays, ability to communicate, religion, food or dietary preferences.

May not assess a family’s or parent’s ability to parent a child of a particular RCNO through use of a cultural competence test.

May not ask a family to develop a trans-RCNO parenting plan to parent across RCNO lines.

Parental Requests About Child(ren)’s Placements Based on RCNO

May not consider or honor a biological parent’s or legal guardian’s request for a child(ren) to be placed in a foster or adoptive home of a certain RCNO in either voluntary or involuntary removals.

This also applies to birth parents who are considering placing an infant for adoption.

Adoption Photo Listing

May identify the RCNO of a child(ren) who is featured in the OCFS Adoption Album.

If another photo listing site is used, such as AdoptUSKids website, <http://www.adoptuskids.org>, the RCNO of the child(ren) **may** be listed so that families can search for children based on RCNO.

Documentation

All placement decisions and the process used to make such decisions, including those decisions made after hours and where RCNO is considered, **must** be carefully documented.

- ✓ If the individualized assessment of a specific’s child’s needs determines that RCNO needs to be considered in a placement decision, it is extremely important that all steps are documented to be in compliance with MEPA.