

ABA Center on Children and the Law
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Multiethnic Placement Act of 1994 as Amended by the Interethnic Adoption Provisions of 1996 (MEPA-IEP)

MEPA-IEP allows agencies the chance to make **early** and **individualized** assessments of child's needs.

Need for MEPA-IEP

- Over representation of minority children in child welfare system.
- Racial and ethnic matching profiles.

Intent of MEPA-IEP

- Decrease length of time for children who are waiting to be adopted.
- Recruit and retain foster and adoptive parents who can meet distinctive needs of children awaiting placement.
- Eliminate discrimination based on basis of race, color or national origin of child or prospective parent.

3 Mandates of MEPA-IEP

- Prohibits states, counties and other entities who receive Federal IV-b and IV-e funding from delaying or denying child's foster care or adoptive placement on basis of child's or prospective parent's race, color or national origin.
- Prohibits denial of the opportunity to become a foster or adoptive parent on basis of prospective parent's or child's race, color or national origin.
- States must diligently recruit foster and adoptive parents who reflect racial and ethnic diversity of children in foster care.

Who is subject to MEPA-IEP?

Any state or other entity that receives funds from federal government and is involved in some aspect of adoptive or foster placements.

- State and county child welfare agencies.
- Other public or private agencies who receive federal funds.

What is Prohibited?

Delaying or denying placements of children for foster care or adoption on basis of race, color, or national origin of the child or parent.

What is a denial?

- Race, color, or national origin cannot be used to make child ineligible for foster care or to deny a particular placement.
- Agency's failure to pursue reunification efforts, concurrent planning or TPR because of race or ethnicity of child.
- Cannot deny opportunity to become adoptive or foster parent.
- When considering race and ethnicity, consideration must be narrowly and individually applied to child's specific needs, no generalities.

What is a delay?

- No holding periods.
- Cannot delay placement based on race, color or national origin.
- Can not wait for same type of family to become available.

Diligent Recruitment of Families Required

States must develop a plan to provide for diligent recruitment of foster and adoptive families.

Comprehensive Recruitment Plan includes:

- Description of the characteristics of waiting children.
- Specific strategies to reach all parts of the community.
- Diverse methods of disseminating general and child specific information.
- Strategies for assuring all prospective parents have timely access to home study process.
- Strategies for training staff to work with diverse cultural, racial and economic communities.
- Strategies for dealing with linguistic barriers.
- Non-discriminatory fee structures.
- Procedures for timely search for prospective parents; placement cannot be delayed by search for a same race or ethnic home.

How is MEPA-IEP Enforced?

- Administrative Action by HHS. Failure to comply is violation of Title VI of the Civil Rights Act.
 - If violation occurs, notify and seek voluntary compliance.
 - If no compliance, federal funds are jeopardized.
- Law Suits, causes of action.

The Constitution and Title VI already prohibit discrimination, why do we need MEPA-IEP?

Prior to MEPA agencies assumed it was ok to match based on race. Permanency for African American children was delayed.

Can race ever be considered?

On rare occasions, distinctive **needs of individual child** may warrant **consideration** of child's race, color or national origin.

Must pass a **strict scrutiny test**. These **needs** of child must be **documented and substantiated**. The worker must document that it is necessary to take into account the child's needs related to race, color or national origin in order to make a placement that serves this particular child's best interests? What must be documented?

- What are the child's special or distinctive needs based on race, color or national origin? Why is it in the child's best interests to take these needs into account?
- Can the child's needs related to race, color, or national origin be taken into account without delaying placement and placing the child at risk of other harm?
- Can these needs be met by a prospective foster or adoptive parent who does not share the child's racial or ethnic background?
- Can these needs be met only by a same race/ethnic placement? If so, is some delay justified in order to search for a parent?
- In a foster care placement, can the child's special needs be taken into account without delaying the child an opportunity to be cared for in a readily available foster home?
- What are the child's other important needs?

Even if facts of case allow some consideration of race, color or national origin, this consideration should not predominate.

Other needs to be considered and given the most weight:

- Age.
- Ties to siblings and other relatives.
- Health or physical condition.

Key issues

- Workers need to make decisions on basis of individualized needs of each child.
- Placement decisions based on stereotypes or generalities are suspect.
- No state laws or policies can be based on blanket preferences for racial or ethnic matching.
- Agencies cannot honor birth parents preferences for race, color or national origin.
- Does not prevent relative placements.
- Does not prohibit religious matching preferences.
- Applies to all children regardless of race or ethnicity.
 - Older youth may have stronger sense of identity
- Individualized decision making.
- Agencies must recruit families that reflect ethnic and racial diversity of children who need homes.

Agencies should

- Promote good child welfare practice.
- Best interests of child must guide agency decision.
- Decrease delays in permanency caused by other factors.
- Review policies.
- Monitor agency compliance.
- Institute recruitment plan.
- Issue clear policies and standards for placement.
- Provide training for workers.
- Good supervision.
- Provide opportunity for discussion and value clarification.
- Get good legal advice.
- Get help.

Workers should

- List the individual needs of the child, prioritize those needs, and find a placement that best fits the needs.
- Make individualized decisions based on sound child welfare practice and best interest of the child.
- If child has specific or distinctive needs, address these as soon as child is placed.
- Assess capacity of potential foster parents to accommodate all needs of a particular child.
- Consider permanency from day one.
- Read statute and guidance.
- Review agency policy.
- Document reasons for decisions.
- Be honest with birth and prospective parents.

Other Federal Law Considerations

Complies with Adoption and Safe Families Act (ASFA). No factors including racial or ethnic should be taken into account in placement decisions unless they have a specific and demonstrable bearing on child's health and safety.

Intersection with Indian Child Welfare Act (ICWA):

- MEPA-IEP does not alter ICWA's recognition of tribal rights or ICWA's preferences for placing Indian children with members of extended family or tribe.
- MEPA-IEP does apply to Indian adults if they want to become foster or adoptive parents.

IV-b: must be in compliance with MEPA-IEP or risk loss of federal funds.

IV-e: graduated financial penalties.

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