



# **ADVANCING RACE RELATIONS: RECOMMENDATIONS FOR TRANSRACIAL FOSTER CARE AND ADOPTION**




# **OBJECTIVES**

- 1. Review current laws involving transracial foster care and adoption**
  - 2. Learn to advocate for development of positive racial identity for adopted and foster children living in transracial families**
  - 3. Obtain practice tools to ensure the child's placement and lifestyle is representative of his/her culture**
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# TRANSRACIAL ADOPTION: THE DEBATE

- THE DEBATE AND CONCERN WAS THAT CHILDREN WERE BEING DENIED PLACEMENTS DUE TO AN OVER RELIANCE ON POLICIES FOCUSED UPON MATCHING THE RACIAL AND ETHNIC MAKEUP OF THE PROSPECTIVE FOSTER OR ADOPTIVE PARENTS.
  - RACIAL MATCHING BECAME ONE OF MANY CRITERIA THAT WAS CONSIDERED GOOD PRACTICE AND IN THE BEST INTEREST OF THE CHILD. CHILDREN AND FAMILIES WERE MATCHED ON PHYSICAL CHARACTERISTICS, SOCIAL STATUS, AND RELIGIOUS PREFERENCE.
  - THE CHILD WELFARE LEAGUE OF AMERICA REPORTED THAT AFRICAN-AMERICAN CHILDREN LINGERED IN CARE TOO LONG WHILE WAITING FOR AN AFRICAN-AMERICAN FOSTER OR ADOPTIVE HOME.
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# ALTERNATIVE PLACEMENTS

- PUBLIC AND PRIVATE AGENCIES STEPPED UP EFFORTS TO PLACE THESE CHILDREN BY INCLUDING MORE KIN, SINGLE FEMALE, AND FOSTER PARENTS IN THE POOL OF PROSPECTIVE ADOPTIVE PARENTS.
  - THE LAST RESORT FOR ADOPTIVE PLACEMENT WAS TO CROSS RACIAL LINES AND TRANSRACIALLY PLACE CHILDREN.
  - TRANSRACIAL FOSTER PLACEMENT AND ADOPTION BECAME THE PRACTICE OF PLACING CHILDREN OF ONE RACE WITH PROSPECTIVE ADOPTIVE PARENTS OF A DIFFERENCE RACE.
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# A DIVIDED FIELD: IS TRANSRACIAL ADOPTION IN THE BEST INTEREST OF THE CHILDREN?

## OPPONENTS

1972- National Association of Black Social Workers (NABSW) - children at risk for racial identity issues and disconnection from their cultural roots. Referred to as “cultural genocide.”

1994- It is in the best interest of the child to preserve a child’s racial, ethnic, and cultural heritage in adoption placement.


## PROPONENTS

1971-1991 – Children adopted by parents of another race were happy with families, grew up just as well-adjusted as their non-adopted siblings, had no identity issues (Simon Research)

It is important that children receive love, attention, and permanency and they do not languish in foster care

“Love is not enough. You can love the adopted child as if he or her was your own, but if you’re adopting across racial lines, you have to make changes.” (Rita Simon)


# UNDISPUTED COMMON CONCERNS

- Efforts to expand the pool of minority foster and adoptive parents faltered.
  - Recruitment efforts did not keep up with growing demand for appropriate homes for minority children who were not reunified with biological parents or placed with relatives.
  - Unintended consequences prolonged delays in securing permanent placements for African American, Hispanic, and other minority children.
  - Some children were being removed from stable transracial foster or adoptive homes to prevent permanent transracial placements.
  - No one disputed the adverse effects on children's emotional and cognitive development if they remained too long in foster care and in a succession of foster care placements.
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**What is  
racial identity?**



# RACIAL IDENTITY

- Identity is an individual's conception of one's self
  - Identity has been recognized as significant to a child's well-being
  - Racial Identity is the child's self-image, pride, acceptance, and understanding of his or her heritage
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# WHY IS RACIAL IDENTITY IMPORTANT?

Studies have shown that:

- Children and adolescents may benefit from developing positive views of their racial identity.
- Research shows that an integrated multiracial identity is a protective factor that helps psychological well-being.
- Adolescents who do not have a stable racial identity show lower self-esteem.
- It is vital for mixed race families to speak to their biracial or multiracial children about their mixed race and foster pride in their background.
- Helpful to provide children education on multiculturalism and different identity stages and/or stressors they may face and how to cope with difficult situations, ie. racial slurs or comments.
- Clinicians, school counselors and mentors can be of great service to children by helping them feel proud of their identity.

# IDENTITY DEVELOPMENT: A LIFELONG PROCESS



## **PRIOR TO 1994 PASSAGE OF MEPA**

**NO FEDERAL STATUTE RESTRICTED STATE AGENCIES RELIANCE ON RACE IN THE PLACEMENT OF CHILDREN FOR ADOPTION OR FOSTER CARE**

**NO FEDERAL COURTS INTERPRETED THE EQUAL PROTECTION CLAUSE TO PROHIBIT SOCIAL WORKERS' CONSIDERATION OF RACE**

**GENERAL ASSUMPTION WAS CHILDREN SHOULD BE PLACED IN A FAMILY AS SIMILAR AS POSSIBLE TO THE BIOLOGICAL FAMILY**

# ***1994 MULTIETHNIC PLACEMENT ACT (MEPA)***

In 1994 – Bill Clinton signed MEPA which prohibited use of Race, Color, and National Origin of a child or prospective parent to deny or delay placement

**PURPOSE:** To facilitate adoption placements by making it illegal for government adoption workers to use race as a dominant factor to either deny or delay adoption placements.

**REPUDIATES:** the antiquated notion that the mixing of races should be prohibited

**REPLACES:** with the notion that adoption is about matching a parent to a child, not a parent to a race

# THE ORIGINAL MEPA

As originally enacted in 1994, MEPA:

- ✓ prohibited federally funded agencies or entities from “**categorically**” denying placement opportunities and from delaying or denying a child’s foster care or adoptive placement “**solely**” on the basis of race, color, or national origin.
- ✓ provided that it was “**permissible**” to consider a child’s “cultural, ethnic, or racial background” and a prospective parent’s capacity to meet these needs as among the factors relevant to determining the child’s best interests.
- ✓ Required that, to remain eligible for federal assistance for their child welfare programs, states must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes.


## THE AMENDED MEPA: INTERETHNIC PLACEMENT ACT (IEPA)

Prompted by testimony that these provisions harmed African-American and other minority children by implicitly condoning systemic avoidance of transracial placements, Congress amended MEPA in 1996. The Interethnic Provisions:

- ✓ repealed some of MEPA's original provisions, including the "permissible considerations" replaced them with the explicit and broad prohibitions that are now central to MEPA. It is now clear that **any actions**—not just categorical decisions— **that delay or deny placements or opportunities to be a parent on the basis of race, color, or national origin are unlawful.**
- ✓ retained the affirmative recruitment mandate and clarifies that children who are in state care are not immune from constitutional protections against racial or ethnic discrimination and that all child welfare agencies receiving funds from any federal source are subject to the anti-discrimination provisions of Title VI of the Civil Rights Act of 1964.
- ✓ **Does not require transracial placements and does not prohibit same-race placements.**

# FOSTER CARE AND ADOPTION PLACEMENTS

May not delay or deny the placement of a child by:

- Allowing child to remain in shelter care or another temporary placement or requiring a holding period to find a particular RCNO foster care placement
  - Removing child who is doing well in a pre-adoptive placement in order to place child into a family with a particular RCNO.
  - Refusing to place the child with a foster or adoptive parent because the foster or adoptive parents' RCNO is different from the child.
  - Removing a child from a foster or adoptive placement because the parent or child is a specific RCNO
  - Refusing to conduct a home study because the child is a specific RCNO.
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## PARENTAL REQUESTS IN FOSTER OR ADOPTIVE PLACEMENTS

- **Can an agency honor birth parent's preferences if based on racial or ethnic factors?**


NO, agency cannot facilitate unlawful discrimination in either voluntary or involuntary removals, but can honor preferences based on other factors. This applies to birth parents considering placing an infant for adoption.

- **Can an agency honor parent's request for placement of child with a relative? What about placement of child with someone of same religion as parent or child?**

YES, agency may honor these preferences, if individuals are otherwise appropriate and suitable.



## **DILIGENT RECRUITMENT EFFORTS**

- Conduct recruitment activities for the purposes of recruiting foster or adoptive parents who reflect the racial and ethnic diversity of the children in foster care (targeted recruitment).
  - Develop 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.
  - Offer training to prospective foster or adoptive parents about parenting a child of a different RCNO as long as such training is offered to all parents and participation not exclusive to only parents who want to foster or adopt a child of a different RCNO.
  - Decline to place a child in a prospective or adoptive home if the prospective foster or adoptive parent's comments or beliefs clearly indicate that placing a child of a specific RCNO with would not be in the best interest of the child.
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# TITLE VI OF THE FEDERAL CIVIL RIGHTS ACT OF 1964 APPLIES TO MEPA

MEPA specifically applied to child welfare the civil rights laws of Title VI which prohibits agencies receiving federal financial assistance from discriminating against children and adults on the **basis of race, color, and national origin**. Made it clear that discrimination would not be tolerated when making foster care and adoptive placement decisions.

Failure to comply with MEPA is a violation of Title VI of the Federal Civil Rights Act.

**MEPA and Title VI do not address discrimination on the basis of religion, age, gender, culture or any other characteristic.**

# TITLE VI, STRICT SCRUTINY, AND CHILD WELFARE

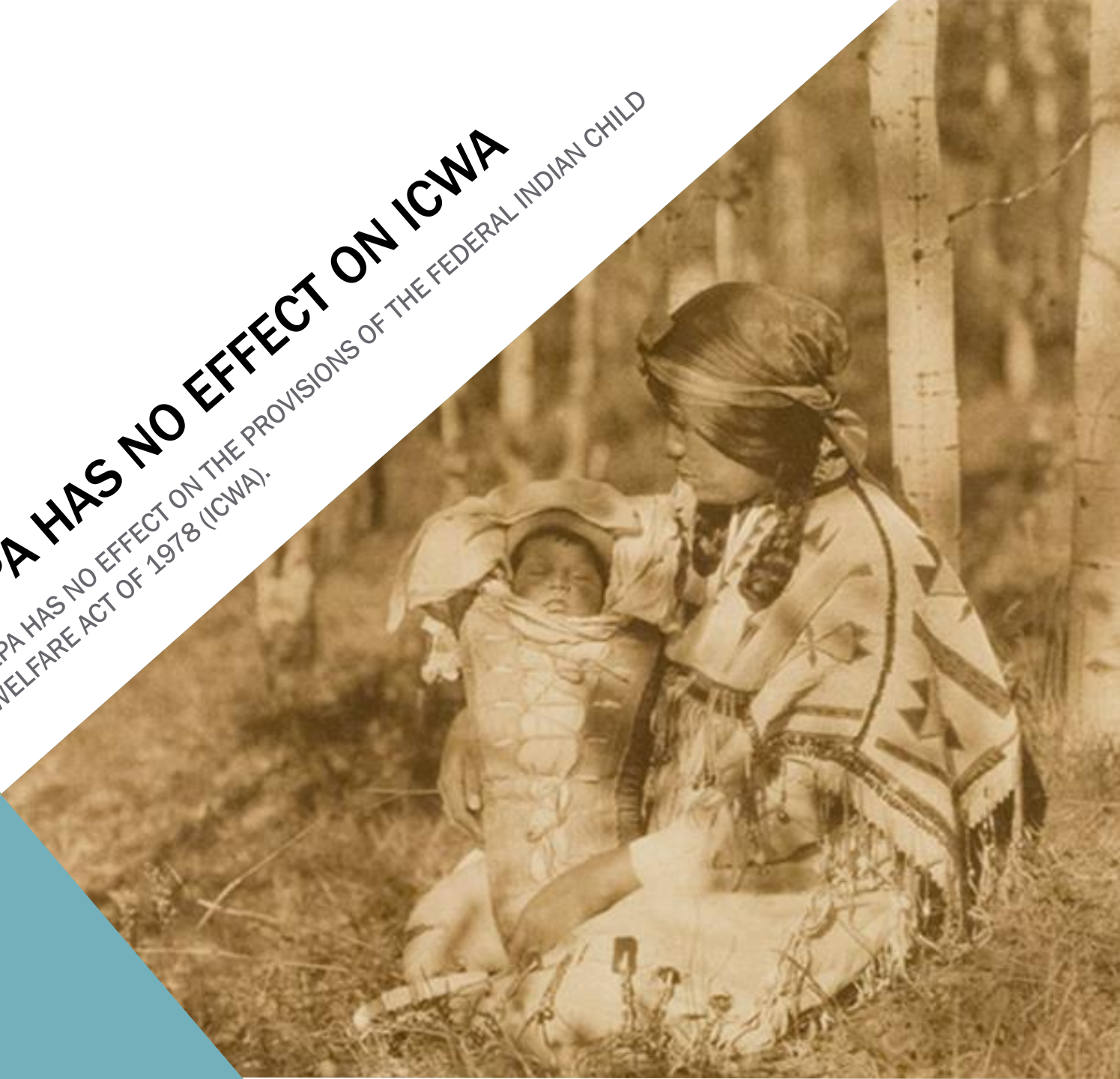
- Consideration of RCNO under Title VI is assessed under a strict scrutiny standard consistent with constitutional strict scrutiny standard for any racial or ethnic classification.
  - Under the strict scrutiny standard, consideration of RCNO must be narrowly tailored (i.e., justified as necessary) to achieve a compelling interest.
  - Advancing the best interests of a child is the only compelling interest that satisfies the strict scrutiny standard.
  - Consideration of RCNO must be on an individualized basis
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## **SUMMARY: TITLE VI AND STRICT SCRUTINY**

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. Any placement policy or action that takes RCNO into account is subject to strict scrutiny.

# **MEPA HAS NO EFFECT ON ICWA**

MEPA HAS NO EFFECT ON THE PROVISIONS OF THE FEDERAL INDIAN CHILD WELFARE ACT OF 1978 (ICWA).



# IS CULTURE PRESERVED WHILE THE CHILD AWAITS A FAMILY?

MEPA, as well as the Civil Rights laws, do not treat culture as a suspect category and do not prohibit consideration of a child's cultural background and experience in making placement decisions.

However, 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, and dietary preferences.

For example, if a child is involved in a particular culture's holiday celebrations and continuing these holiday celebrations is important to the child, the agency may match the child with a family who celebrates the same holidays.



## WAYS TO INCREASE THE BICULTURALISM IN TRANSRACIAL FAMILIES

- ✓ Multicultural babysitter or respite provider?
- ✓ Multicultural faith environment?
- ✓ Multicultural physician?
- ✓ Diverse school or daycare?
- ✓ Multicultural mentor for child and foster/adoptive parents?
- ✓ Diverse neighborhood?
- ✓ Opportunity to visit libraries, museums to learn about culture or heritage?
- ✓ Access to reading materials, books, movies focused on child's culture?
- ✓ Multicultural camps, support groups?
- ✓ Opportunity to express racial issues, his/her opinion freely?
- ✓ Toys that reflect the child's race and ethnicity?
- ✓ Eat at multicultural restaurants?
- ✓ Cook or purchase multicultural foods or snacks?
- ✓ Learn about inventors, community members, and other positive role models in their ethnic group?
- ✓ Listen to multicultural music?
- ✓ Own an multicultural clothing or traditional dress?
- ✓ Celebrate holidays, attend events focused on the culture?
- ✓ Barbershop, hair salon, hairstyles?
- ✓ Traditional language, artwork, dance, other culture practices?


**MANY ADOPTIVE PARENTS CREATE A MULTICULTURAL ENVIRONMENT FOR THEIR CHILDREN TO OFFSET POTENTIAL IDENTITY PROBLEMS**





# ENFORCEMENT OF MEPA

The Office of Civil Rights (OCR):

- a. Enforces the civil rights provisions of MEPA
  - b. Investigate complaints and conducts compliance reviews
  - c. Makes determination of compliance or noncompliance
  - d. Where compliance cannot be secured through voluntary means, may initiate proceedings to terminate Federal financial assistance or refer a case to the Department of Justice
  - e. Provides technical assistance to help ensure voluntary compliance with the law
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## AFTER MEPA: DO TRANSRACIAL ADOPTIONS SERVE THE CHILDREN'S BEST INTEREST?


*In any adoption plan, the best interests of the child should be paramount. All decisions should be based on the needs of the individual child.*

Individualized assessments must be conducted on each individual child to determine how to facilitate the best placement for the child. In most cases, the best interest of the child can be served without consideration of RCNO.

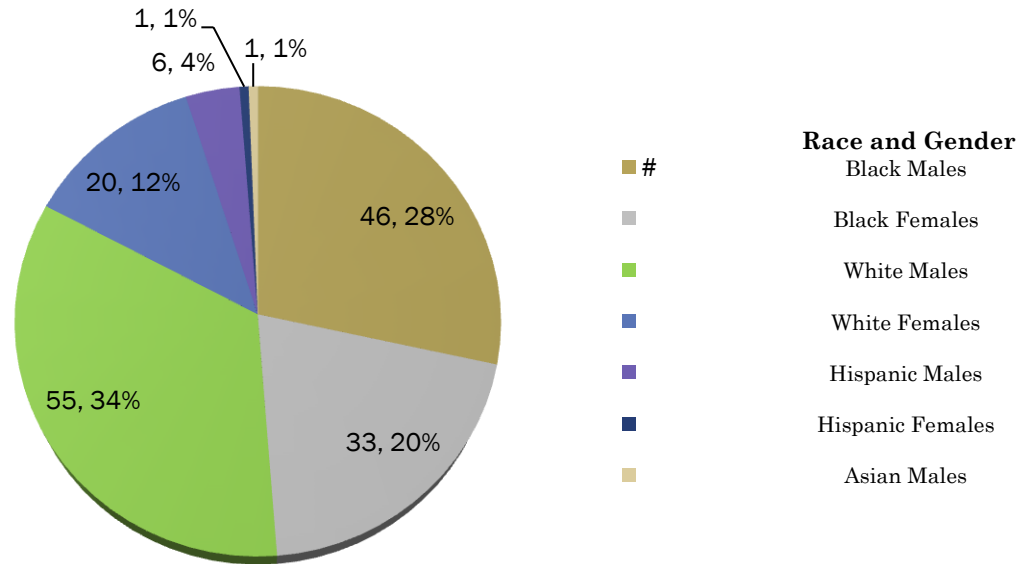
Some factors indicating that it is in the best interest of the child may include:

- The child's unique or unusual history related to RCNO (eg, traumatic experience).
- If the child is 14 years old or more requests or refuses a placement based on RCNO, the agency can honor the child's request or refusal without violating MEPA or Title VI.

# HAS MEPA REMOVED BARRIERS TO PERMANENCY? HAS MEPA REDUCED THE TIME MINORITY CHILDREN SPEND IN FOSTER CARE OR WAIT TO BE ADOPTED?

- Consider monitoring the timeliness of the process of transracial placements.
  - Consider monitoring all children at each stage of the child protection process to ensure that no child is disproportionately held back from foster care or adoptive placement.
  - Consider undertaking a comprehensive and well-documented assessment of each child's placement needs as promptly as possible.
  - Consider monitoring and documenting the rates at which minority children leave care, and the kinds of placements they experience. How do these rates compare to the permanency rates of white children?
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# CHILDREN WAITING TO BE ADOPTED IN GEORGIA



These figures represent kids in DFCS custody, who are currently waiting to be adopted **only** and does not includes all kids in foster care. ( Source: *It's My Turn Now Georgia*, 10/15/2017)


# WHAT DOES THIS DATA SUGGEST ABOUT ADOPTION PREFERENCES?

Consistent with a recent study conducted by a team of economists from Caltech, the London School of Economics, and NYU which finds:

- Girls are consistently preferred to boys.
- This preference for girls in cases of adoptive children may be because adoptive parents “fear dysfunctional social behavior in adopted children and perceive girls as ‘less risky’ than boys in that respect.”
- Caucasians and Hispanics are consistently preferred to African-Americans.
- This preference can be in part, but not fully, explained by the fact that most of the adoptive parents are white and often want children to look similar to themselves.

# MEPA PRESENTS OPPORTUNITY TO IMPROVE CHILD WELFARE PRACTICES

MEPA, as amended:

- Enables stakeholders to get beyond stereotypical thinking about the needs of children in foster care and focus on the distinctive needs of the individual child;
  - Encourages sensitivity to serving the needs of children based on their actual life experiences and particular behavioral, physical, emotional, and cultural needs;
  - Eliminates the risk of serious harm to children whose placements are delayed due to biases about race and ethnicity that may not have any bearing on the child's actual needs;
  - Enlists agencies to expand the pool of suitable foster and adoptive parents.
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# CASE SCENARIO #1

Julie is a three-year old Caucasian-Latino child with fetal alcohol syndrome. She has been in foster care with the same unmarried African American couple since she was an infant. Although their home is designed as an emergency home only, she has never been moved. Her parents are not able to care for her, but want her placed with married relatives who live in another state and who have adopted the parents' older healthier son. What are your recommendations for Julie?

## CASE SCENARIO #2

Melanie is a two-year old Latino-African American child whose mother is dead and whose father is enrolled in parenting classes and is eager to raise her. Melanie has been living with an unmarried Latino woman and Caucasian partner who were initially willing to facilitate visits with Melanie's father, but have since become concerned about what they describe to caseworkers as "his violent temperament and obvious hatred of women."

Two other foster parents may be available, if you decide to move Melanie. One is with an unmarried Caucasian woman whose three foster children were recently reunited with their parents and who is strongly committed to concurrent planning. The other is with a married African American couple who are engaged to adopt and who are strongly opposed to concurrent planning. Will you recommend that Melanie be moved from her current placement, and if so, with whom do you think she should be placed?



# CASE SCENARIO #3

Sarah is a 10-year old Caucasian child whose parents, both Caucasian, are addicted to Meth. The parents placed Sarah with her paternal cousins, who in turn placed Sarah with a married Caucasian man and woman who were not relatives. The non-relatives obtained temporary guardianship of Sarah, but decided after two years to place her in foster care because they are moving to Texas and do not want to take Sarah. Sarah's parents are still struggling with Meth, and their parental rights are terminated. Sarah is placed with a single African American woman who is the adoptive parent of two African American girls, ages 14 and 15, and the foster parent of another Caucasian girl age 12.

The permanency plan for Sarah is adoption. Sarah, now 14, wants to be adopted by the African American adoptive parent where she is placed. The African American adoptive parent wants to adopt her also. Sarah tells her attorney she does not want to continue to be moved from place to place by her relatives. Yet, another distant cousin and the cousin's husband, steps up and wants to adopt Sarah. Will you recommend that Sarah be moved from her current placement, and if so would you recommend adoption by the relatives?

**HOW CAN YOU ENSURE THAT YOUR CHILD WILL GROW UP FEELING SAFE, SECURE IN HIS IDENTITY AND CLOSE TO YOUR FAMILY?**



***Commit to calling out racism and fighting  
injustice wherever you see it.***

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