

Finding Permanency for African American Children in the Child Welfare System: Implications of MEPA/IEPA*

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Transracial adoption is defined as the adoption of a child from a different race/ethnicity than the race/ethnicity of the adoptive parent(s). It is a practice that continues to be a subject of debate in our society as well as across the globe. Numerous books and articles have addressed this practice over the past 50 years, often driven by polarizing agendas. This body of work has been used and misused to fuel a false dichotomy on transracial adoption – portraying transracial adoption as either “good” or “bad” for children. As with so many issues, the answers are not absolute: the best interest of a particular child is determined by many considerations, one of which may be race.

Over the past three decades, there have been substantial changes in the practice of transracial and intercountry adoption in the US and the policies that govern these practices. Efforts have been made to address the removal of Native American children from their families and tribes; the number of international adoptions by U.S. citizens has grown dramatically, with greater attention to practice and policy; and child welfare legislation has been enacted in the United States that both promotes foster care and adoptive placements with families of children’s racial and cultural heritage *and* forbids the denial or delay of the foster or adoptive placement of a child in state custody due to racial considerations.

With the implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption scheduled for early 2008, the U.S. will soon have three federal policies concerning transracial adoption. The Hague Convention was adopted in 1993 and, to date, has been ratified by approximately 71 countries. It was established to regulate abuses in international adoption and to protect the rights of children, birthparents, and adoptive parents. Article 16 of the Hague Convention states that a child’s country of origin must “give due consideration to the child’s upbringing and to his or her ethnic, religious and cultural background” and “determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.” The Hague Convention on Intercountry Adoption, and the implementing Intercountry Adoption Act of 2000 (Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, 1993) require that adoption agencies carefully attend to how parents will meet the needs of children adopted from another race, ethnicity, or culture.

The U.S. signed the Hague Convention and plans to ratify it early in 2008 when all implementing regulations are in place. These regulations, issued by the U.S. Department of State in February, 2006, include a focus on children’s racial and ethnic

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needs in two ways. First, they require that prospective adoptive parents receive 10 hours of pre-adoption training which, among other topics, must address the "long-term implications for families who become multi-cultural through intercountry adoption" (Section 96.48). Second, adoption service providers are to counsel parents about the child's history, including a focus on the child's "cultural, racial, religious, ethnic, and linguistic background" (Riggs & Kroll, 2006).

The Indian Child Welfare Act (ICWA) of 1978 established federal standards for the removal of Indian children from American Indian families including provisions to ensure the placement of Indian children in foster or adoptive homes that would reflect the unique values of the tribes. If placement in a child's extended family cannot be done, then the next order of placement is a family from another Indian tribe and then other Indian families approved by the tribe.

Unlike ICWA and the Hague, the Multiethnic Placement Act of 1994 (MEPA) and its subsequent amendments, the Interethnic Adoption Provisions (IEP) enacted in 1996, prohibit child welfare agencies that receive federal funding from considering race, color or national origin in the foster and adoptive placement of children in foster care except in extraordinary circumstances. These policies represent very different policy approaches to the role of race in adoption. Of the three US policies regarding the role of race in adoption decision making, it is only MEPA-IEP that prohibits the consideration of race in the placements of children with foster and adoptive families.

This paper focuses primarily on the evolution and implementation of MEPA/IEP as a policy and practice approach to meeting the needs of African American children in foster care who cannot be safely reunited with their parents or placed with kin. It will specifically address the following five questions identified for consideration by the U.S. Commission on Civil Rights:

- 1) Has the enactment of MEPA removed barriers to permanency facing children involved in the child protective system?
- 2) Has the enactment of MEPA reduced the amount of time minority children spend in foster care or wait to be adopted?
- 3) How effectively is the Department of Health and Human Services (HHS) enforcing MEPA?

- 4) What impact has HHS' enforcement of MEPA had on the efforts of prospective foster care or adoptive parents to adopt or provide foster care for minority children?
- 5) Does transracial adoption serve children's best interest or does it have negative consequences for minority children, families, and communities?

Trends in the Adoption of African American Children from Foster Care

In examining the controversial issue of the impact of MEPA on the transracial adoption of African American children in foster care, it is important to consider the historical context as well as the competing interests, policies and practices which have impacted its implementation. Throughout most of the 19th century and beyond, transracial adoption in the United States rarely occurred and was illegal in many states. During this era, adoption was largely arranged informally and to the extent that efforts were made to "match" children and adoptive families, religion was the most important criteria. By the mid 20th century, adoption had become professionalized, and adoption professionals assumed the responsibility for matching children and parents. They utilized a wide range of criteria which were considered vital to a proper "match" in a social environment which required that children and adoptive parents resemble one another as closely as possible: physical appearance, race, cultural background, and potential talents. Given the highly segregated social environment of the US during the 1950s and 1960s and anti-miscegenation laws, transracial adoption was extremely rare (Freundlich, 2000).

Although there were a few instances of transracial placements as early as the 40's, transracial adoption of African American children in the U.S. really began in the 1960s as a result of two significant developments: (1) changes in the demographic profile of children placed for adoption as the number of healthy White infants relinquished for adoption began to decline and increasingly, adoption agencies began to place children of color with adoptive families; and (2) the civil rights movement which significantly altered societal views of racial relationships.

Historically, racial matching in adoption was standard practice. For example, in 1958, the Child Welfare League of America's Adoption Standards suggested that children with the same racial characteristics as their adoptive parents could be more easily integrated into the average family (McRoy, 1989). At that time White families were typically adopting the many White infants which were placed for adoption. However, in the 60's due to liberalized abortion laws, growing use of contraceptives, and increased social acceptance of unwed parenthood, there was a smaller supply of healthy White infants available for adoption (McRoy, 1989). Some agencies responded by establishing waiting lists and often establishing very stringent criteria for families seeking to adopt a

healthy White infant, which was considered the “ideal adoptable child.” During this time also, some private agencies which had previously discouraged the relinquishment of black infants, began to accept them for adoption placement planning (Day, 1979).

In many cases, if White families could not qualify for a “White healthy infant” due to parental age or number of children already in the home, some agencies were open to considering the family for a “child with special needs,” typically a child who was black, mixed race, older, or with special emotional or behavioral needs. Concurrently, the growing number of children in the public foster care system led many White families to become foster parents with the hope that they eventually might be able to adopt.

By 1968, the Child Welfare League of America changed its Adoption Standards on matching and suggested that “In most communities there are families who have the capacity to adopt a child whose racial background is different from their own. Such couples should be encouraged to consider such a child (Child Welfare League of America, 1968, p. 34). By 1971, the number of transracially adopted African American children reportedly reached 2,574 (Simon & Altstein, 1987).

Concern about the growing number of African American children being placed with White families, led the National Association of Black Social Workers to issue a position statement in 1972 which stipulated that Black children “belong physically and psychologically and culturally in black families where they receive the total sense of themselves and develop a sound projection of their future.(National Association of Black Social Workers, 1971, pp. 2-3). Concurrently, concerns were also raised about the limited success agencies were having in finding African American adoptive families. Although African American families had historically informally adopted and provided kinship care, many agencies had failed to recruit from the African American community and many White workers “knew little about stable African American families or their potential as resources for the children” (Duncan, 2005, p. 2).

Based upon the large numbers of approved waiting Caucasian families and limited numbers of approved waiting African American prospective adoptive families, many agencies believed that African American families were either not available or uninterested in adopting (Sullivan, 1994). However, many studies (Hill, 1993; Mason & Williams, 1985, Rodriguez and Meyer, 1991) suggested that African American families are not only interested but have applied to adopt, but disproportionately high numbers are screened out of the process. Rodriguez and Myer found that agency policies and lack of sufficient minority and trained staff members were among the barriers to successful recruitment of families for older minority children. In 1991, the North American Council on Adoptable Children (1991) similarly reported the following barriers to African American families adopting: agency fees, inflexible standards, institutional/systemic racism and lack of minority staff. Some agencies responded by seeking more African American families through establishing satellite offices in African American communities and eliminating rigid eligibility criteria which served to screen out African American families. Also new minority specializing agencies were established

such as Homes for Black Children in Detroit in the late 60's and Black Adoption Program and Services in Kansas City, Kansas in the early 70's (Duncan, 2005)

Over the years, there continued to be significant increases in the number of children in foster care and disproportionately high numbers of children awaiting adoption were African American (McRoy, 2003). By 1994, there were nearly 500,000 children in foster care. Children were waiting a median of two years and eight months to be adopted and African American children were waiting the longest (Brooks, Barth, Bussiere, & Patterson, 1999). However, instead of focusing on factors leading to the growing numbers of children being removed from African American birth families and placement in foster care, the disparate outcomes for African American children in the foster care system, the need to overcome barriers to African American families adopting, or the need to increase funding for more family preservation services for African American birth families, Congress turned its attention in 1994 to reducing the barriers to transracial adoption of African American children.

These developments provided the basis in the 1990s for a broad policy effort to prohibit "racial matching" policies and practices in foster and adoptive placements. Among others, Harvard law professors Elizabeth Bartholet (1991, 1993) and Randall Kennedy (1995) contended that matching children with adoptive families on the basis of race was unconstitutional, and they championed the removal of all barriers to transracial adoption as the means to move African American children from foster care to adoption more quickly. They argued that "race matching" policies represented race-based state action, were discriminatory, and, consequently, violated the Fourteenth Amendment equal protection guarantee and antidiscrimination legislation such as Title VI of the Civil Rights Act of 1964. Bartholet and Banks (1998) asserted that the state could not permissibly make decisions about adoptive placements based on race; they disagreed, however, on whether prospective adoptive parents could express race-based preferences. Bartholet, on the one hand, contended that prospective adoptive parents were entitled to express racial preferences regarding the child they would adopt and create a multiracial family only if they so chose; Banks, on the other hand, argued that allowing prospective adoptive parents to state racial preferences for a child and accommodating their preferences was "facilitative accommodation" and promoted racism (Bartholet, 1991, 1993; Banks; 1998).

In 1994, Congress passed the Multiethnic Placement Act (MEPA, PL 103-382). Introduced by Senators Howard Metzenbaum and Carol Moseley-Braun, MEPA was designed to address concerns related to African American children's long stays in foster care by (1) prohibiting the delay or denial of a child's foster care or adoptive placement solely on the basis of race, color, or national origin; and (2) requiring that state agencies make diligent efforts to expand the pool of foster and adoptive parents who represented the racial and ethnic backgrounds of children in foster care. Congress believed that through the implementation of these two approaches, the number of minority adopters would increase and barriers would be removed to children's placement with any

available qualified adoptive families. MEPA's mandates apply to any agency that receives federal funds from any source and is involved in some aspect of foster or adoptive placements.

The enactment of MEPA was strongly influenced by two factors. First, a much publicized *60 Minutes* program aired shortly before the bill was introduced decrying "race matching" policies and linking these policies to the overrepresentation of African American children in foster care. Second, during hearings on MEPA, White families seeking to adopt children in their care passionately argued that race matching policies discriminated against them by limiting their ability to adopt African American infants. Interestingly, no attention was given at the hearings to the fact that White children were typically placed with White adoptive families, generating no claims of discrimination, and under the Indian Child Welfare Act, preference was given for Indian children to be placed with Indian families (McRoy, et al., 2007).

Almost immediately upon enactment of MEPA, there were calls that the Act did not go far enough in removing barriers to transracial adoption. Regulations to implement MEPA were still pending with the US Department of Health and Human Services when, in the course of debates on Title IV-E that were taking place on the floor of the House of Representatives, it was asserted that MEPA had failed and was not being appropriately implemented (Congressional Record, March 25, 1995). The following month, two very different opinions about MEPA were published in the *American Bar Association Journal* (p. 44):

- Senator Carol Moseley-Braun, co-sponsor of MEPA, wrote that "race, culture and heritage of the child and the family are considerations in an adoption" but should never be the determining factor. She stated that changing the law to incorporate language that would eliminate any consideration of race in determining the best interests of a child "will only further frustrate efforts to increase adoption by ethnic or minority families" and "would have the effect of reinforcing the status quo."
- Randall Kennedy wrote that racial matching "undoubtedly prevents a substantial number of children from ever reaching adoptive homes." He stated that there was no justification for racial matching and that, at best, those who advocate for the consideration of race in adoption decision in any way "resort to vague, unsubstantiated intuitions such as the dubious notion that, all things equal, adults of the same race as a child will be better able to raise that child than adults of a different race," a claim which he labeled as no more valid than "a hunch."

The Interethnic Placement Act Amendments (IEP). In 1996, consistent with the Kennedy opinion piece, MEPA was amended by the Removal of Barriers to Interethnic Adoption Provisions (IEP) (as attached to PL 104-88). IEP removed the word "solely" from MEPA's prohibition against delaying or denying an adoptive placement "solely on the basis of race..." IEP prohibited agencies receiving federal child welfare funding from

considering race in decisions regarding foster care or adoption placements. It substituted, instead, language of other civil rights statutes through its prohibition on any consideration of race as a factor in decision-making (Bartholet, 1999).

Subsequent federal guidance made clear that agencies were not to consider race or ethnicity, except when a “compelling government interest” was at stake, language drawn directly from Title VI of the Civil Rights Act. The guidance states the “best interest of the child” allowed consideration of race in narrow and exceptional circumstances, such as when an older child who had the right to consent to adoption refused to be placed with a family of a particular race (Hollinger, 1998).

IEP added provisions addressing the rights of prospective adoptive parents. It prohibits states from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the parent or child’s race. IEP provides that neither a state nor any other entity in the state that receives funds from the federal government and is involved in adoption or foster care placements may:

- deny to any person the opportunity to become an adoptive or a foster parent, on the basis of the race, color, or national origin of the person, or of the child, involved; or
- delay or deny the placement of a child for adoption or into foster care, on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

Assumptions underlying MEPA-IEP. The rationale upon which MEPA/IEP is based includes four primary assumptions: 1) there are large numbers of White families seeking to adopt minority children in foster care; 2) there is an insufficient number of African American families able to or interested in adopting; 3) a large number of minority children will not achieve permanency unless race-matching policies are prohibited and transracial adoptions are promoted broadly; and 4) children fare just as well or better when adopted transracially.

Proponents of MEPA predicted that when race matching policies were banned and transracial adoption was broadly promoted, thousands of African American children waiting in foster care would leave care to adoptive families (Simon, Alstein, & Melli, 1994). Bartholet (1993, p. 99) stated that “very large numbers of black children in need of homes are spending significant amounts of their childhoods in foster and institutional care rather than permanent adoptive homes because of policies against transracial placement.” These assumptions were not based on evidence that showed either that minority children’s longer stays in foster care were caused by policies that promoted same race adoptive placements or on evidence that showed that transracial adoption would shorten their stays in foster care.

1) Has the enactment of MEPA removed barriers to permanency facing children involved in the child protective system?

Transracial adoption has not proven to be the “answer” to the long waits of African American children in foster care. According to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) for FY2005 (US Department of Health and Human Services, 2007) there were 513,000 children in foster care who were an average of ten years old. Thirty-two percent of these children or 166,482 were African American. Also in 2005, 114,000 children were awaiting adoption and 36% or 40,840 children are African American. The children awaiting adoption were an average of five years when they were removed from their parents and an average of 27 months have passed since parental rights were terminated. These children are now an average of 8.6 years old. According to HHS adoption data, “over the last five years, African American children as well as Native American children have consistently experienced lower rates of adoption than children of other races and ethnicities” (GAO,2007, p. 56).

A look at the number of transracial adoptions reveals that although there have been small increases in transracial placements of African American children, there are thousands remaining who need permanency. Pollack and Hansen (2007) recently reported their economic analysis of transracial adoptions. They found that between 1996 and 2003, transracial adoptions of African American children with state agency involvement rose from 17.2% in 1996 to 20.1% in 2003. This rate fluctuated annually from a low of 11.2% in 1999 to a high of 20.1% in 2003, and averaged 16% across these years.

Although it appears that there has been a small increase nationally in the number of transracial adoptions of African American children, the pattern varies considerably from one state to another. One pattern, seen in a number of states, is a significant increase in the number of adoptions of African American children from foster care with only a very small percentage of these adoptions being transracial. A number of states with substantial African American populations (such as IL, CA, GA, KY, NC, PA, DC, CO) have had the largest increases in the number of adoptions of African American children from foster care during years when the number of transracial adoptions has been low. In FY2000, for example, California had the highest number of adoptions of African American children from foster care and only 9 percent of those adoptions were transracial; in other years, when California’s total number of adoptions of African American children from foster care was lower, the percentage for African Americans adopted transracially was higher (ranging from 13 to 15 percent). In 1999, Illinois finalized adoptions for 5,408 African American children in foster care, of which only 4 percent were transracial (Hansen & Simon, 2004). The converse pattern was found in 6 states where increases in the adoptions of African American children in foster care was accompanied by increases in the numbers of transracial adoptions (IA, MN, NJ, OH, OK, and TN). Interestingly, Ohio was one of these states, and yet, it was assessed the most severe financial penalty for violation of MEPA-IEP (Hansen & Simon, 2004).

The Local Agency Survey (LAS), an extension of the National Study of Child and Adolescent Well-being, sought to assess the impact of both MEPA-IEP and the Adoption and Safe Families Act (ASFA) on child welfare practice and outcomes. In the survey of agency administrators, most agencies (77 percent) reported that there had been no increase in the proportion of transracial foster or adoptive placements following the enactment of MEPA-IEP (Mitchell, Barth, Green, Wall, Biemer, Berrick, Webb, and NSCAW workgroup, 2005).

Moreover, the recent GAO (2007) report on African American disproportionality in the child welfare system found that “only 15 states reported that encouraging race-neutral adoptions would help reduce disproportionality and 18 states responded that the policy had no effect while 12 indicated that they were unable to tell” (p. 58). In fact in some cases, workers were reported to misunderstand MEPA and believe that it prohibits or discourages same race adoptions. As a result, workers may be less likely to place African American children with relatives or in same race adoptions.

2) Has the enactment of MEPA reduced the amount of time minority children spend in foster care or wait to be adopted?

The small reductions in time to adoption for African American children have little to do with the enactment of MEPA. Since the passage of ASFA, the time to adoption has declined, on average, for all racial and ethnic groups of children in foster care. One study (Hansen & Pollack, 2007) found that African American children who were adopted transracially spent one less month in foster care between termination of parental rights (TPR) and adoption finalization compared to children adopted by same race families (14.3 months compared to 15.6 months). The researchers hypothesized that this difference was most likely related to the higher percentage of African American children, when compared to other racial groups, who are adopted by relatives; ASFA’s exemption of children in stable placements with kin from time requirements for moving to TPR; and caseworkers’ lower sense of urgency regarding the legal status of children in kinship care. Other studies indicate that children adopted by relatives generally wait longer for adoption finalization, although they are placed with permanent families more quickly than children adopted by unrelated families and they experience fewer moves while in foster care (GAO, 2007; Howard, 2006; Magruder, 1994).

Other benefits of relative adoptions have been documented. An Illinois study of over 1300 adoptive families found that 60 percent of the African American children adopted from foster care were adopted by relatives, compared to 16 percent of Caucasian children. Although time in foster care was longer when kin adopted, these adoptive families reported the most positive child outcomes when compared to the outcomes for children adopted by unrelated foster families and children adopted by unrelated families who were recruited and matched with them. Children adopted by relatives had fewer school problems, fewer behavior problems, greater closeness in the parent-child

relationship, and a higher rate of satisfaction with their adoption experience (Howard, 2006; Rosenthal & Groze, 1992).

African American children who are adopted transracially are generally very young children. Federal data show that in FY2002, the majority of African American children adopted transracially were age 4 and younger (Maza, 2004). Similarly Hansen and Pollack (2007) noted that children adopted transracially are an average of a year younger than children placed in same race placements and that the proportion of infants and toddlers transracially placed doubled between 1996 and 2003. They also found that transracial adoptions are only half as likely to occur with teenagers.

In FY 2002, the median age of all 124,000 children waiting for adoptive families was 8.5 years. These data make clear that it is younger African American children who are adopted transracially from foster care and not the older African American children who states almost uniformly consider to have “special needs,” that is, characteristics or conditions that make their adoptive placements more challenging. These data also make clear that predictions that transracial adoption would significantly increase adoption opportunities for older African American children in foster care have not proven to be correct. In fact, according to Maza (2000), in fiscal year 2000 older African American children “were more than three times as likely to be adopted by a single female than were older White children “(p. 6). She found that half of the adoptive mothers of African American children adopted from foster care are 50 years or older.

3) How effectively is HHS enforcing MEPA/IEPA?

The U.S. Department of Health and Human Services (DHHS) Office for Civil Rights is charged with enforcing MEPA. The enforcement has focused only on one of the two requirements, removal of barriers to transracial adoptions, with no enforcement efforts directed to the law’s requirement of diligent recruitment of families who represent the racial and ethnic backgrounds of children in foster care.

DHHS has conducted over 130 investigations across the country, and in the majority, either no violation was found or the agency was asked to, and agreed to make changes as recommended by DHHS. In 2003, DHHS for the first time documented a violation of MEPA-IEP and assessed a fine against a child welfare agency. Hamilton County, Ohio and the state of Ohio, were fined \$1.8 million. Subsequently, in 2006, DHHS found the South Carolina Department of Social Services to be in violation of MEPA-IEP and assessed a fine of \$107,000. DHHS findings of MEPA-IEP violations have been based, among other issues, on the following state/county activities:

- Requiring parents who adopt transracially to prepare a plan for addressing the child’s cultural identity. DHHS held that this practice discriminated against parents by requiring them to undertake efforts not required of other adoptive families. (Cited legal basis: Title VI of the Civil Rights Act which prohibits providing services to an individual in a different manner on the basis of race.)

- Requiring families who seek to adopt transracially to evaluate the racial composition of the neighborhood in which they resided. (Cited legal basis: Title VI of the Civil Rights Act which prohibits treating an individual differently on the basis of race in satisfying any requirements to be provided a service.)
- Making “generalized assumptions,” as evidenced by the above activities, that families interested in adopting transracially must take additional steps to ensure that they can appropriately parent a child of color.
- Making placement matches which appear to consider race. In one case, the agency had chosen a single White parent over a White couple because she lived in an “integrated neighborhood and had bi-racial brothers.” DHHS stated:

“HCDHS sought out information about how much contact the Lamms had with the African American community and whether there were African American teachers or students in the local school system. In this context, HCDHS’ concerns and statements about the Lamms’ ability to meet Leah’s ‘cultural’ needs were, in actuality, concerns and statements based on HCDHS’ view that Leah, as an African American child, had needs, based on her race, that the Lamms could not meet, simply because they were Caucasian” (p. 20).

- Considering the racial preferences of children in foster care who are below the legal age to give consent to the adoption.
- Using a computerized matching system based on preferences of prospective adoptive parents and the characteristics of the child. South Carolina’s use of such a system was found to over-emphasize race because the agency would, at times, change certain characteristics of the child, such as age, to identify a broader pool of prospective adoptive parents, but did not change the child’s race to do so. This practice was deemed to “overemphasize” the race preference of the parents.

The interpretations of MEPA-IEP that have served as the basis for its enforcement run directly counter to proven best practice in adoption. Of greatest concern are interpretations of MEPA-IEP that prohibit agencies from assessing families regarding their readiness to adopt a child of another race/ethnicity; preparing families for transracial adoption in any way that is not provided to families who adopt in-race; considering families’ existing or planned connections with the child’s racial/ethnic heritage/culture; and considering children’s expressed preferences related to race unless the child has the right to consent to his/her adoption. Understandable fears of enforcement actions and fiscal penalties have led states to step away from best practices that serve children’s and families’ interests and are consistent with social work ethics.

As mentioned earlier, in the U.S. three different policies direct practice regarding the role of race, ethnicity, and culture in adoption, and they conflict in substantial ways. ICWA and MEPA-IEP represent almost polar opposites in their treatment of race as a

factor in foster care and adoption placement decision-making. MEPA-IEP prohibits an agency receiving federal funding from considering race and ethnicity in the foster or adoptive placement of a child except, as has been interpreted by DHHS, when a compelling government interest is at stake. ICWA places strong value on racial/ethnic heritage by giving statutory preference to the placement of Native American children with members of their own tribes or other Indian tribes. Similarly, the Hague Convention and the Intercountry Adoption Act of 2000 require that attention be paid to children's cultural, racial, religious, ethnic, and linguistic background needs and the preparation of parents to meet those needs. MEPA-IEP has created a different status for African American children who are adopted from the foster care system with regard to racial/ethnic/cultural identity – a status that diverges significantly from that recognized in law for American Indian/Alaskan Native children, children adopted internationally, and children who are adopted through private adoption agencies that do not receive federal funds.

The radically different approaches in federal laws and policies about race and adoption reflect the deep societal divide in the U.S. regarding the role of race in adoptive family formation. The result is a disturbing inconsistency in policy that, as research has demonstrated and transracial adoptees and their families have consistently reported, harms children, families, and the very agencies charged with serving them. For some children (internationally adopted children and Native American children), the law holds that race and culture matter, and the law protects their racial and cultural interests; for African American children, however, the law holds that race does not matter, and the law not only does not protect their racial and cultural interests, it punishes those who work to respect and protect those interests.

The divergent legal mandates create impossible demands on adoption agencies that are committed to serving children of color and their adoptive families in accordance with recognized standards of best practice. A private agency, for example, may have both an international adoption program and a program that provides adoption services for children in foster care through a contract with the state public child welfare agency (and partially funded with federal dollars). That agency could be found to have violated MEPA-IEP and could be fined because in its international adoption program, it uses a home study format that addresses race/cultural issues in a way that complies with the Hague Convention but yet appears to violate MEPA-IEP for adoptions of children in foster care. An agency may provide educational opportunities to provide prospective adoptive parents with opportunities to learn about the racial/ethnic/cultural identity needs of a child whom they may adopt and their plans for meeting that child's needs, a practice entirely consistent with the Hague Convention. This program, however, may be found to violate MEPA-IEP if prospective adoptive parents of children in foster care also are required to attend this program.

4) What is the impact HHS' enforcement of MEPA has had on the efforts of prospective foster care or adoptive parents to adopt or provide foster care for minority children?

An important question regarding the impact of MEPA-IEP is the extent to which it has strengthened agencies' efforts to diligently recruit families who represent the racial and ethnic backgrounds of children in foster care. Data indicate that it has not. In the Local Agency Survey (Mitchell, et al, 2005), only 8 percent of agencies of the 97 responding agencies (generally, agencies in large urban areas) reported that they created new recruitment resources following the enactment of MEPA-IEP. Among other possible reasons, agencies' lingering confusion about allowable actions under MEPA-IEP, including the permissible scope of adoptive family recruitment efforts, appears to have stifled diligent recruitment efforts (Mitchell, et. al., 2005). Similar findings emerged from the Child and Family Service Reviews which found that although 22 states reported having plans for diligent recruitment of families who reflect the racial and cultural backgrounds of children in foster care, the majority of states had not met this MEPA requirement.

Although the proportion of children in foster care who are African American has declined somewhat, these children continue to be disproportionately represented among children in foster care and underrepresented among children who are adopted from foster care. The goals of reducing the length of time that African American children remain in foster care, waiting for adoptive families, and increasing their opportunities for adoption must be met in other ways—such as contracting with minority-based adoption agencies. It is critical that policy makers assess and address the unintended, negative consequences of MEPA-IEP that are working against achieving the very goals that the law sought to achieve—the lack of resources devoted to specialized recruitment of families who represent the racial/ethnic backgrounds of children in foster care; the paralyzing effects of interpreting MEPA-IEP as prohibiting the use of established best practices in recruiting, preparing, and support prospective adoptive parents; and the use of punitive approaches in the form of significant fiscal penalties that have caused agencies to retreat from what they know children and families need.

5) Does transracial adoption serve the children's best interest or does it have negative consequences for minority children, families, and communities?

Just like children born into birth families, children enter adoptive families with their own unique combination of risk and potential. Likewise, parents bring to the formation of families their own constellation of strengths and limitations. Adoption itself brings challenges to children and families in addressing issues such as loss, identity, and others. Transracial adoption adds another layer of issues that children and families must address. Research suggests that African Americans adopted transracially have more adjustment problems than other subgroups of transracially adopted children. Feigelman (2000) found that black transracially adopted young adults exhibited three or more

adjustment problems at twice the rate of other transracially adopted persons. Brooks and Barth (1999) reported that African-American transracially adopted males were more likely than other groups to adjustment problems. The contributions of empirical research to our understanding of the particular challenges posed by transracial adoption are discussed below.

Researchers in the fields of sociology, psychology, and social work began to focus on transracial adoption in the 1970s and 1980s, studying children placed in infancy or at very young ages. They looked at overall ratings of adjustment, including self-esteem, achievement, and level of adjustment problems. Most used very small sample sizes, and some did not have comparison groups of children placed in same-race families. Overall, these studies found that children adopted transracially in the U.S. or from other countries had overall adjustment outcomes similar to children placed in same-race families, particularly when they are adopted early in life (Grow & Shapiro, 1974; Kim, 1977; McRoy, Zurcher, Lauderdale, & Anderson, 1982, 1984; McRoy & Zurcher, 1983; Simon & Altstein, 1987; Feigelman & Silverman, 1983; Shireman & Johnson, 1986).

Recent studies of transracial adoption have used more rigorous research methods such as multivariate analyses to determine the contribution of various factors in child outcomes. They have refined the specific constructs that are measured (racial/ethnic identity, reference group orientation, aspects of cultural socialization, and others) and have tested hypotheses about the relationship between different variables. To date, however, most studies of outcomes of transracial adoption have examined children adopted in infancy or at young ages. Few have focused on children adopted from foster care. In general, studies show that the younger children are at adoption and the less serious and less extensive the maltreatment they have experienced, the lower the level of adjustment difficulties. It is clear that more attention needs to be given in future research to the impact of transracial adoption on children adopted at older ages and with more extensive histories of abuse or neglect. There is, however, much to be learned from the current body of empirical research.

A group of studies have examined racial/ethnic identity in transracially adopted persons, but again, most do not address the relationship between the racial and ethnic experiences of adoptees and their adjustment. Lee (2003) reviewed more recent cultural socialization outcome studies that serve as a bridge between outcome studies and racial/ethnic identity studies. His review focused on studies that have examined how adoptees and families address the challenges of transracial adoption and how these differences are associated with different adjustment outcomes.

Based on the current body of research, three conclusions are firmly supported:

1. Transracial adoption in itself does not produce psychological or social maladjustment problems in children.

2. There is a range of challenges that transracially adopted children and their families face, and the manner in which parents handle them facilitates or hinders a child's development.
3. Children adopted from foster care come to adoption with many risk factors that pose challenges for healthy development. For these children, it is particularly important that they be placed with adoptive families who can address their particular needs, including racial/ethnic identity needs, so as to maximize their opportunity to develop to their fullest potential.

Studies Addressing Challenges in Transracial Adoption

Several studies have found that transracially adopted children struggle more with acceptance and comfort with their physical appearance compared with children placed in-race (Andujo, 1988; Kim, 1995). Although some children may leave this feeling behind, the sense of difference continues into adulthood for many transracial adoptees. Brooks and Barth (1999) studied 25 year-old adoptees and reported that about half of Black and Asian transracial adoptees had expressed discomfort about their ethnoracial appearance. The exception was black females: only 21 percent expressed such discomfort.

An African American man growing up with White parents in a small Minnesota town described his pervasive feelings of difference while growing up: "I always felt like I had this 'A' on my forehead, this adoptee, that people could see from a far distance that I was different" (Clemetson & Nixon, 2006, p.A18). Research and reports from transracially adopted adults indicate that this struggle is more intense for children of color growing up in homogeneous White communities. Feigelman (2000), for example, found that transracial adoptees from White-only communities were more likely than adoptees living in racially mixed communities to have discomfort with their racial appearance (51% vs. 25%). In summarizing his findings, Feigelman wrote:

One of the study's most striking findings showed that transracial adoptive parents' decisions on where to live had a substantial impact upon their children's adjustments. Transracial adoptive parents residing in predominately White communities tended to have adoptees who experienced more discomfort about their appearance than those who lived in integrated settings. Adoptees feeling more discomfort, in turn, were more likely to have adjustment difficulties (p. 180).

"Fitting In": The Family, Neighborhood, School, and Community. In addition to the internal struggle with a sense of difference, transracially adopted persons often find challenges in overcoming the sense of difference in all areas of their lives. One of the childhood struggles described by many transracially adopted young adults was the difficulty fitting in with peers, the community in general, and sometimes, with their own

families. The following responses from transracially adopted persons illustrate these challenges:

I don't think that there should ever be just one transracially adopted child in the family. Children need to know that there is support at home and to be able to look at another brown kid. It's not enough for the parents to love the child. They need to be able to look at others of the same race in the family. It's unfair to the child if there isn't (Haymes & Simon, 2003, p. 264).

If we lived in a different neighborhood, I'd feel more comfortable. People wouldn't ask so many questions or call me names. I feel a little more comfortable around people who are my color because I know they won't call me names (Haymes & Simon, 2003, p. 261).

The social world of very young children is centered largely in their family, but as children develop, their social world becomes increasingly influenced by experiences outside their families. A child may have a strong sense of belonging within his or her family but struggle significantly to fit in outside the family. When family members are not able to understand a child's experience outside the family or to adequately support the child in addressing racial issues, feelings of competing allegiances, isolation, and alienation can result.

Fitting in with those of the child's own race/ethnicity. A transracially adopted African American man interviewed for a *New York Times* story reported that he always felt awkward around other blacks because he did not understand their culture: trends in fashion or music, or little things like playing the dozens or the black oral tradition of dueling insults (Clemetson & Nixon, 2006). Having grown up in a small town in Minnesota, there were few other African Americans who could help develop an understanding of the culture. Others who grew up in similar situations report that it was not until they went to college that they began to cultivate relationships with persons of their own race. This process involved acculturation and a struggle with conflicting feelings. John Raible (1990), a transracial adoptee, describes this experience:

I got to know other middle class black students as real people who were not that different from me. I began to appreciate the variety of ways of being black...Yet all was not smooth sailing, by any means. I felt nervous and anxious around my new black friends and peers. I was self-conscious about sounding or acting 'too White.' I felt scrutinized for having White girlfriends, and continued to fret over being rejected and not being taken seriously as an equal...when my parents would come to visit, I was self-conscious about being seen with them. I worried about being seen too often, or in the 'wrong' places, with my White friends. I was very aware of feeling caught between two cultures, of having to tread the line between two worlds.

The “marginal man” phenomenon experienced by those who are, to a large extent, “caught between two cultures” and do not fit in with either group is a theme of Raible’s experience. There has been very limited research focus on transracial adoptees’ feelings of marginality in society and lack of belongingness in the family. A study of 88 African American transracial adoptees found that those who were low in identification with both African American and White reference group orientations were more maladjusted (DeBerry, et al., 1996), that is, they did not feel that they belonged with either group.

Developing a Positive Racial/Ethnic Identity. Racial/ethnic identity, a component of personal identity, develops over the course of childhood, adolescence, and early adulthood. Generally, by age 4, children are aware of physical racial differences and by age 9, they can see themselves through the eyes of others and understand the consequences of a particular racial group membership, including prejudice (Lee & Quintana, 2005). This process has particularly important implications for African American children for whom racial/ethnic identity is salient and closely tied to self-esteem (Phinney, 1991). There are various constructs related to ethnic/racial identity, including self-identification, attitudes toward one’s own group, sense of belonging to a given group, reference group orientation, and racial preferences. The research on transracial adoption has focused in different ways on these constructs.

McRoy and colleagues conducted one of the only early studies that included measures of both self-esteem and racial identity for same-race and transracially adopted children (McRoy, Zurcher, Lauderdale, & Anderson, 1982). Although they found no significant differences between transracially and in-racially adopted children on self-esteem, they found that transracially adopted children scored lower on racial identity measures than in-race adoptees. They also found that the manner in which White parents addressed race was linked with the extent to which their children acknowledged racial differences. African American children whose parents acknowledged their children’s racial identity, moved to integrated neighborhoods, and provided their children with African American role models had a greater sense of racial pride; African American children with White parents who minimized the importance of racial identity were reluctant to identify themselves racially. Eighty percent of the transracially adopted African American children had been told that “they were not like other blacks” (McRoy et al., 1984, p. 38). Andujo (1988) found similar results in her study of 60 Mexican American children placed with same-race and with White families.

Over the past 15 years, researchers have begun to examine racial/ethnic identity issues in more sophisticated ways and to explore the relationship between different adaptations to racial/ethnic identity and aspects of overall adjustment. Research indicates that transracial adoptees demonstrate considerable differences in how they incorporate race/ethnicity into their identity over the course of their childhood and beyond.

Early studies on domestic transracial adoption found that parents were most likely to minimize racial differences and emphasize a color-blind approach (Lee; 2003; Andujo, 1988; DeBerry et al., 1996; McRoy & Zurcher, 1983). These families acculturated their children into the majority culture, but often, they did not help their children integrate their African American or Latino racial status into their identity. These children were reluctant to identify with those of their own racial group or avoided African American peers (McRoy et al., 1982, 1984). According to one scholar on racial adaptations, assimilated individuals can fare well when the environment is supportive. When navigating conflicts between two racial memberships, the most poorly adjusted individuals are marginal in that they never develop a strong identity with either group (Phinney, 1991 & 1992).

Scholars studying racial adaptations of minority children view those children with a bicultural or multicultural identification as the most highly adjusted (Phinney, 1991 & 1992, DeBerry, et al, 1996). Likewise, standards of professional adoption practice have increasingly focused on preparing parents to assist children adopted transracially to integrate their heritage in a positive manner into their sense of self. They encourage parents to acknowledge racial differences, communicate openly with their children about race and culture, and offer their children opportunities to gain knowledge and experience related to their birth group (Vonk & Angaran, 2003).

More recent research has focused on parents' approaches to cultural and racial socialization and how these relate to different aspects of ethno-racial identity as well as to adjustment. Most studies assessing the extent to which transracial adoptive parents provide cultural socialization opportunities to their children indicate that there is a low level of focus on these opportunities (primarily through books or cultural events) in childhood but that even this low level of activity drops away as the child grows into adolescence (Mohanty, et al., 2006; DeBerry, et al., 1996).

Kimberly DeBerry and colleagues (1996) have conducted the most sophisticated and extensive research on patterns of family racial socialization and racial identity in African American children adopted transracially. Assessing 88 transracially adopted African American adoptees at ages 7 and 17 and their families, they found that that family racial socialization predicted the adoptees' racial orientation, which, in turn, predicted adjustment. Most transracially adopted adolescents experienced difficulty becoming ecologically competent in both Africentric and Eurocentric orientations. The study also found that youth who experienced more transracial adoptive stressors (such as perceived racial stress and perceived transracial adoptive stress) were more maladjusted. DeBerry and colleagues suggested five potential explanations for their findings that relatively few adoptees had both high Eurocentric and Africentric reference group orientations and were well adjusted: multiple forms of loss and grief, converse acculturation stress, unresolved belongingness issues, uncertainty and difficulty emotionally regulating and cognitively negotiating shifts between Africentric and Eurocentric reference group orientations, and/or differential trust patterns (such as a generalized distrust of European-Americans and relative mistrust of African-Americans).

When a child's race is different from both adoptive parents, it is especially important for the child to receive support and understanding in learning to cope with discrimination. If parents minimize the difficulty of discriminatory experiences or are unable to support and understand their child, barriers can develop in the parent-child relationship. Raible (1990), for example, described how he gave up trying to talk to his family because he was told that he was being too sensitive. He resigned himself to expecting less support and understanding from his parents. He stated that his parents worried that he was rejecting them in seeking knowledge of his black heritage, which created feelings of guilt and disloyalty as he explored issues of race.

The only recent study examining transracial adoption of children adopted from foster care is an Illinois study assessing the adjustment of 1340 children, ages 6–18 and receiving adoption subsidies (Howard & Smith, 2003). The study used, as a measure of overall adjustment, the Behavior Problem Index (BPI), a standardized behavior problem measure utilized in the National Longitudinal Survey of Youth. The BPI lists 28 behavior problems. The National Longitudinal Survey of Youth found for the more than 11,500 children studied, that the mean number of behavior problems was 6.4. In the Howard and Smith study (2003), the mean number of behavior problems for children adopted from foster care was 11.9. African American children had the lowest rates of behavior problems (mean of 10.4 problem behaviors) of all racial/ethnic groups. Important differences were noted, however, between African American children who were adopted transracially and those who were adopted by same-race families. The 73 African American children adopted transracially had a mean of 14.4 behavior problems compared to a mean of 9.9 behavior problems for the 407 African American children adopted by same-race families. On most other outcomes such as the parent's closeness to the child or their satisfaction with the adoption, transracially placed children were not significantly different. However, parents were more likely to rate their transracially placed children as more difficult to raise than the parents of children placed in same-race families.

Although these findings do not provide a basis for reaching conclusions about the level of problems among African American children placed transracially compared to African American children adopted by black families, they indicate the need for further research in this area. Most children adopted from foster care have experienced a constellation of experiences that present challenges to their development. The Howard and Smith study (2003) found that these children had experienced a range of adverse experiences: serious neglect (63%), prenatal alcohol or drug exposure (60%), physical abuse (33%), sexual abuse (17%), and two or more foster placements (37%). Most children had experienced more than one of these risk factors. Children in foster care who have experienced assaults on their developmental status and well-being require environments that mitigate rather than heighten their vulnerability. They need opportunities to develop nurturing attachments to parents and siblings, succeed in

school, establish friendships with other children, and find acceptance and support in all areas of their lives.

Conclusion

The assumptions underlying the development of MEPA-IEP were not accurate, and the anticipated outcomes of the law — to expedite adoptions of children of color in foster care by promoting transracial adoption-- have not come to pass. As adoption professionals with expertise in the adoption of children in foster care explained when MEPA and then IEP were enacted, relatively small numbers of White families express an interest in adopting older children and youth of color in foster care. As these professionals urged Congress to understand, MEPA-IEP's promotion of transracial adoption could not—and has not—resulted in large numbers of African American children and youth leaving foster care for adoption by White families. The removal of barriers to transracial adoption, IEP's relegation of race to a non-issue, and the levying of significant penalties for MEPA-IEP violations have not substantially increased the number of transracial adoptions of African American children in care, particularly not for the older children and youth for whom adoption is a more challenging goal.

Recommendations

Provide funding for family support and preservation of birth families.

Although the incidence of child abuse and neglect does not vary significantly by race or ethnic group, African American children are represented in the foster care system at a rate that is 2.26 times greater than the proportion they comprise of the total U.S. population (GAO, 2007). African American children are more likely to be removed from their families, and they are less likely to be adopted once their parents' rights have been terminated (GAO, 2007. Barth (1997) found that White children have a five times greater chance to be adopted than any child from a minority group and that the adoption process proceeds more slowly for African American children than for White children.

A number of interrelated factors have been identified which may influence these disproportionate outcomes for African American children. According to the recent GAO report (2007), such factors include "African American families' higher rates of poverty, difficulties in accessing support services to provide a safe environment and prevent removal, and racial bias and cultural misunderstandings among child welfare decision makers (p. 16). The report also attributed longer lengths of stay for African American children to the "lack of appropriate adoptive homes for children, greater likelihood of using kinship care, and parents' lack of access to supportive services needed for reunification with their children" (p. 16). If states could offer these services to birthfamilies, many child removals could be prevented and more birthfamilies could be preserved. This study as well as previous studies (the Pew Commission (2004) and earlier GAO studies (GAO-06-787T; GAO 07-75) have concluded that since the majority of federal funding through Title IV-E funding is for foster care maintenance payments,

states do not have the flexibility to use these funds for support and prevention services for birth families.

Promote positive adoption outcomes for African American children who cannot be safely reunified with parents or extended family members.

When African American children in foster care cannot be safely reunited with their parents or extended family members, they need the security, stability and love of adoptive families. To ensure that African American children in foster care are timely placed with adoptive families who can meet their needs, including their racial/ethnic needs, we make the following recommendations:

Repeal IEP and reinstate the MEPA standard. Good, ethical adoption practice requires consideration of race and ethnicity.

Policy and law should be consistent with established best adoption practice and explicitly state that the racial/ethnic identity needs of children should be addressed throughout the adoption process and after adoption. Federal and state law should state that race is one factor that can be taken into consideration in matching prospective adoptive families and children in foster care. Law should accord with practice that directs that the matching process address whether specific families are able to meet all needs of the child, including racial/ethnic identity issues. It should be consistent with practice that directs that all foster and adoptive families receive some level of training in parenting children of culturally diverse backgrounds and with practice that requires that when families adopt transracially or transculturally, they receive additional training and other supportive services to ensure that they are prepared to meet their children's racial, ethnic, cultural, and linguistic needs.

A child's best interests should always be paramount in decisions regarding children's foster care and adoption placements. The choice of a foster or adoptive family should be based on an assessment of which family can best meet the child's individual needs, including the child's racial/ethnic identity, cultural, and linguistic needs. This choice must be driven by the child's needs and not by prospective adoptive parents' needs or presumed "rights". By focusing on Title VI and protections for prospective adoptive parents, DHHS has placed too little emphasis on the "best interest of the child." There is broad practice and legal support for assessments of prospective adoptive families to ensure the safety and well-being of children. Just as these assessments take into account families' abilities to meet children's physical, emotional, social, and developmental needs, they must take into account families' ability to meet children's racial/ethnic identity needs.

Prepare families for transracial adoptions.

According to CWLA adoption standards (2000), all children deserve to be raised in a family that respects their cultural heritage. The standard states, "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. Assessing and preparing a child for a

transracial/transcultural adoption should recognize the importance of culture and race to the child and his or her experiences and identification. The adoptive family selected should demonstrate an awareness of and sensitivity to the cultural resources that may be needed after placement.”

When families who adopt transracially do not receive preparation and training that promote racial awareness and assist them with multicultural planning and the development of survival skills, they and their children are not well served. Families lose critical opportunities to assess their own preparedness to adopt transracially and to develop the awareness and skills that are essential to meeting their children’s racial/ethnic identity and socialization needs. Failing to provide families with this preparation and training is contrary to sound and ethical social work practice with its emphasis on recognition of and support of each individual’s racial/ethnic identity and socialization needs. The current interpretation of MEPA-IEP allows such preparation and training, but only if it is offered to all prospective adoptive families, irrespective of whether they are adopting transracially. This requirement creates unrealistic expectations for prospective adoptive families by mandating that all families participate in training regarding transracial adoption irrespective of their adoption plans or that no families receive this preparation. It also creates unrealistic demands on adoption agencies as they work to appropriately serve prospective adoptive families based on their adoption interests and plans. To “legally” provide preparation and training regarding transracial parenting, agencies must design programs that generally appeal to all families, inevitably resulting in “watered down” training and preparation. Just as an agency would provide a family who plans to adopt a child who is HIV-affected with special training and preparation to address the child’s needs, families who adopt transracially need training and support to meet their child’s needs.

Address barriers to inracial adoptions.

Barriers to adoption for African American families have been documented by a number of authors and research studies. Hill (2004) reported that African-American-run organizations have been highly successful in placing African American children in foster care with adoptive families, but many state agencies do not contract with them or only call them for help in placing the oldest children and those who are the most difficult to place for adoption. Casey Family Programs (2005, p. 17), reporting on a project involving 22 public child welfare agencies, found that a “history of negative interactions between communities of color and child welfare agencies” contributed to a lack of success in finding adoptive families of color. As the participating public child welfare agencies developed and implemented new strategies, including developing partnerships with faith-based organizations in the black community, they achieved significant increases in the number of families of color applying to adopt.

Enforce the MEPA requirement to recruit and retain families which reflect the children needing placement.

The majority of children in foster care are minority children. As MEPA-IEP recognizes, meeting those children's needs for adoptive families requires diligent recruitment of more families that reflect the ethnic, racial, and linguistic diversity of the children served. A broader pool of minority foster families would provide a critical needed solution to ensuring that these children have the benefit of adoptive families as soon as adoption becomes the plan. This requirement of MEPA should be supported with financial resources and fully enforced. Agencies should work closely with minority specializing agencies that have proven success in recruiting and retaining minority foster and adoptive families.

Full implementation of MEPA's requirement for specialized recruitment of families that reflect the ethnic and racial diversity of children in the state would go a long way in expanding the pool of adoptive families for waiting children in foster care. These families, because they are members of the same communities as waiting children, are most likely to adopt African American children in foster care. It is through developing this pool of families that there is the greatest opportunity to reduce the time that African American children remain in foster care waiting to be adopted, the very goal of MEPA-IEP.

Many child welfare professionals view the recruitment and retention of minority families as an essential step in increasing the number of minority children who leave foster care to adoption. Yet, according to the recent GAO report (2007) more than half of states are not meeting HHS performance goals for recruitment. Interviewees for this study called for more parents who want to adopt older African American children and for resources to implement recruitment and training initiatives.

As Hill (2004) noted that African American-controlled organizations have a very good track record of successful recruitment of African American families, many state agencies either do not contract with them or contract only for older children and not the younger African American children. In 2005, NACAC published a list of 24 such agencies located throughout the United States which can help states become compliant with the MEPA recruitment requirement (McRoy, Mica, Freundlich, & Kroll, 2007).

Recruitment of inracial foster families.

As another strategy to increase the likelihood of adoption for African American children from foster care, emphasis should be placed on recruiting more African American foster families as 60% of all adoptions from care are by foster families. By placing initially in same race families who are willing to adopt if termination occurs, it is possible to avoid the tension that develops between the importance of supporting children's attachments to White foster families and the importance of providing children with opportunities to be with same race families.

Provide funding for subsidized guardianship.

As relatives are another significant resource for the placement of older African American youth, Congress should consider amending federal law to allow federal reimbursement for legal guardianship similar to the subsidies provided for adoption. States that have implemented subsidized guardianship programs have found that this is both cost effective and serves to reduce the number of African American children in the system and provides permanency for children (GAO, 2007, p. 65).

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