



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

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Office for Civil Rights, Region IV  
61 Forsyth Street, Suite 3B70  
Atlanta, Georgia 30303

February 22, 2011

Lanier M. Cansler, Secretary  
North Carolina Department of Health and Human Services  
2001 Mail Service Center  
Raleigh, North Carolina 27699-2001

Reference Number: 11-123514

Dear Secretary Cansler:

This is to advise you that the U.S. Department of Health and Human Services, Office for Civil Rights (OCR), is initiating a compliance review of the North Carolina Department of Health and Human Services (DHHS), Division of Social Services (DSS), foster care and adoption program. A compliance review is a regular systemic inspection designed to determine whether a recipient of HHS funding is complying with certain civil rights laws that OCR is authorized to enforce. This compliance review will assess whether the adoption and foster care process is being conducted without discrimination on the basis of race, color or national origin.

This review will be conducted under the authorities of Title VI of the Civil Rights Act of 1964, 45 C.F.R., Part 80, and the Interethnic Provisions of the Small Business Job Protection Act of 1996. Title VI prohibits discrimination on the basis of race, color, or national origin in programs or activities that receive Federal financial assistance from HHS. The regulation implementing Title VI, at 45 C.F.R. § 80.7, provides that the responsible Department official or his or her designee (OCR), shall from time to time review the practices of recipients to determine whether they are in compliance with the regulation. Title VI implementing regulation can be obtained upon request to the Regional Office or found on OCR's website at: <http://www.hhs.gov/ocr/part80org.html>.

As a recipient of HHS funds and a government entity involved in adoption or foster care placements, DHHS-DSS has an obligation to comply with the preceding civil rights statutes and to ensure the compliance of entities such as local DSS programs that receive funding through your agency.

The conduct of this review will require the collection and analysis of information as well as on-site visits. In order to expedite the review and facilitate the determination of DHHS-DSS compliance, we are requesting that your agency submit its response to the attached data request within thirty (30) days of receipt of this letter. The information listed in the data request is not all inclusive as it is anticipated that data gathering activities may continue throughout the investigation and may possibly involve post on-site requests. In preparing this response, please separate and tabulate the responses for DHHS-DSS, each region, satellite and county cited,

according to the numbered requests as indicated in the data request. This request is not subject to the Paper Reduction Act (P.L. 96-511).

Our access to books, records, accounts, other sources of information, and premises as may be necessary to ascertain compliance is authorized by the regulation implementing Title VI of the Civil Rights Act of 1964, 45 C.F.R., § 80.6(b) and (c). Each recipient shall permit access by the responsible department official or his designee during normal business hours to such of its books, records, accounts, and other sources of information and its facilities as may be pertinent to ascertain compliance with this part.

You should be advised that pursuant to 45 C.F.R. §80.7(e), participants in the investigation may not be intimidated, threatened, or coerced by DHHS-DSS or other covered representatives of the agency or other persons because she/he testified, assisted or participated in any manner in an investigation, proceeding or hearing held in connection with this review.

Under the Freedom of Information Act, we may be required to release this letter and other information related to this case upon request by the public. In the event we receive such a request, we will make every effort, to the extent provided by law, to protect information that identifies individuals or that, if released, could constitute a clearly unwarranted invasion of privacy.

Please be advised that communication by unencrypted e-mail presents a risk of disclosure of the transmitted information to, or interception by, unintended third parties. Please keep this in mind when communicating with us by e-mail.

Please be assured that our office is committed to resolving this matter in an efficient and timely manner. To this end, Carla Carter, Supervisory Equal Opportunity Specialist will contact you within a few days to arrange a conference call to discuss this review. Her contact information is (404) 562-7869 (Voice), (404) 331-2867 (TDD) or [carla.carter@hhs.gov](mailto:carla.carter@hhs.gov). Thank you for your cooperation.

Sincerely,



Roosevelt Freeman  
Regional Manager

cc: M. Terry Hodges, Compliance Attorney

## Data Request

Please provide OCR with the following information within **30** days of receipt of this letter. If data is available electronically, please submit electronic copies, in addition to the hard copy originals either in MS Word (.doc) or Adobe Acrobat (.pdf) format. The electronic copy should be identical to and/or contain the same information as the paper copy. The electronic copies may be sent either by regular mail using electronic media such as CD-ROM (CD) or DVD, or as an attachment through email(s) to [Carla.Carter@hhs.gov](mailto:Carla.Carter@hhs.gov).

1. Identify the contact person at the DHHS-DSS who is responsible for providing the responses to this data request. Please provide the contact person's name, title, mailing address, telephone number, fax number, and e-mail address.
2. Provide the name, title, mailing address, telephone number, fax number, and e-mail address of the persons at the DHHS-DSS and each county DSS office who are responsible for Title VI compliance.
3. Provide an organizational chart of the DHHS-DSS and county DSS offices.
4. Describe the relationship between the DHHS, DSS, county DSS and private adoption agencies which administer the adoption program. Specifically, describe the roles of each entity within the adoption process.
5. Provide a map (or maps) showing the boundaries of each county DSS office. Please clearly label each boundary, providing, for example, the county or city line, name of the road, body of water, or other visible object that forms the boundary.
6. Provide a description of the racial and ethnic demographics for each county DSS service area. Please identify the source(s) for this information.
7. Provide a copy of all applicable policies, procedures, guidance, Dear County Director letters regarding the placement of children.
8. A copy of applications, questionnaires and related materials provided to individuals who express an interest in trans-racial placements.
9. A copy of DHHS-DSS, county DSS and private adoption agencies policy for matching children with adoptive resources.
10. A copy of any notices and/or guidelines on foster care and adoption practices under MEPA/IEP issued by DHHS-DSS, county DSS and private adoption agencies.
11. A copy of DHHS-DSS, County DSS and private adoption agencies MEPA plan including recruitment plans.
12. Describe any MEPA plan monitoring activities. Provide copies of all applicable MEPA strategies, reports and analyses.

13. A copy of all printed materials describing the foster care and adoption programs including recruitment materials describing financial, subsidies and other assistance to children and families.
14. A description of training programs conducted within the last eighteen months relating to foster care and adoption and the dates the trainings were conducted. This includes training for employees, prospective and biological parents and contractors.
15. Copies of all notices provided to staff, prospective and biological parents, contractors and the public regarding the filing of Title VI complaints.
16. A copy of the Title VI complaint policy, procedure and form.
17. A copy of all complaints filed based on race, color, national origin, disability. Identify all complainants by name, race, color, national origin, disability; Describe the nature of the allegation, dates of investigation and disposition; Provide a copy of all applicable documents created by and received by the agency.
18. The number of children eligible for foster care and adoption by placement type [foster care or adoption] by month and by race from January 1, 2008, through January 1, 2010.
19. The average length of time a child was in placement awaiting foster care and adoption by month and by race from January 1, 2008, through January 1, 2010.
20. A listing of all adoption placements made from January 1, 2008, through January 1, 2010, by race of the child, age of the child, race of the adoptive parents and length of time the child waited for adoption

## HOLDING STATE AGENCIES ACCOUNTABLE FOR COMPLIANCE STATUS OF SUBRECIPIENTS

### Introduction:

State operated programs and activities receiving Federal financial assistance from the Department of Health and Human Services (DHHS) must comply with applicable statutes and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability, age and religion in DHHS-assisted programs.

See listing of statutes and regulations below. Such compliance obligations exist whether the Federally-assisted program is conducted directly by the State or carried out by other public or private entities ("sub-recipients") under contracts, licenses, or other arrangements with State agencies.

Under DHHS regulations, a State will be held accountable for discrimination by its sub-recipients. In an effort to work closely with State agencies in securing voluntary compliance from sub-recipients, OCR has established procedures to be followed when a complaint investigation, compliance review, or other information indicates that a sub-recipient has failed to comply with an applicable statute or regulation.

### Procedural Policy:

When a sub-recipient is found to be in violation, and the State is directly involved in the violation (such as when State law, policy, regulation, or guidance results in the sub-recipient being in noncompliance or when OCR has evidence that the State was aware of the discriminatory action and should have taken corrective action in its own initiative), both the State and the sub-recipient will be cited as being in violation of the applicable regulation.

When a sub-recipient is found to be in violation and the State is not directly involved in the violation, OCR will cite the sub-recipient and notify the State of this finding. The State will be given a fixed number of days to obtain the voluntary compliance of the sub-recipient before OCR will cite the State for a violation. If the State brings the sub-recipient into compliance, the State will not be cited. If the State refuses or is not successful in bringing the sub-recipient into compliance, OCR will cite the State as well as the sub-recipient as being in violation.