

VOLUNTARY COMPLIANCE AGREEMENT

between

THE OFFICE FOR CIVIL RIGHTS

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

and

FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES

PERTAINING TO IMMIGRANT ACCESS TO PUBLIC BENEFITS

OCR Reference Numbers: 04-02-7004 and 02-00612

I. BACKGROUND

- A. The parties to this Voluntary Compliance Agreement (“Agreement”) are the Florida Department of Children and Families (“DCF”), and the Office for Civil Rights of the United States Department of Health and Human Services (“OCR”). DCF is the State agency responsible for administering eligibility determinations for various federally funded benefit programs including Temporary Assistance to Needy Families (“TANF”), Medicaid, and the State Children’s Health Insurance Program (“SCHIP”). OCR is representing the concerns of the Department of Health and Human Services (“DHHS”) as expressed in the November 22, 2000, February 28, 2001 and April 2, 2002 letters to DCF from OCR.
- B. On March 1, 2000, OCR received a complaint from Farmworker Health Services, Inc., alleging that eligible Hispanic applicants were being discriminated against at the DCF office located in Okeechobee County. Among other allegations, the complaint alleged that DCF employees requested extra documentation from Hispanic applicants, asked unnecessary questions about the citizenship status of non-applicant household members, and threatened to report Hispanic household members to the INS. The complaint also alleged that eligible household members were systematically denied benefits if their household contained members unwilling or unable to provide Social Security Numbers (“SSNs”) or documentation proving citizenship or immigration status. The complainant sought the remedy that there be “an end to discrimination and respect for the right to apply for public benefits without intimidation.”

As a result of its investigation, OCR made certain findings and notified DCF of existing and/or potential problems, in a series of letters written on November 22, 2000, February 28, 2001, and April 2, 2002. These letters also notified DCF of its opportunity to

voluntarily comply with title VI. In a letter written on June 2, 2002, DCF notified OCR of its intent to bring itself into voluntary compliance with title VI. This letter contained a complex work plan.

- C. The purpose of this Agreement is to clarify the steps that DCF and OCR agree to take to address the existing and/or potential problems identified by OCR. The Agreement will also clarify the legal requirements and Federal guidance which will guide DCF's efforts to address any noted deficiencies and/or concerns. The goal of this agreement is to provide that actions are taken which will ensure that Hispanic and other immigrant minorities may apply for DCF administered public benefits without facing discrimination and intimidation.

II. LEGAL REQUIREMENTS AND FEDERAL GUIDANCE

- A. As recipients of Federal financial assistance, DCF is subject to title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et. seq. ("title VI"), and implementing regulations as found at 45 C. F. R. Part 80. Title VI prohibits recipients of Federal financial assistance from discriminating on the basis of race, color, or national origin. Title VI applies to both intentional discrimination and policies and to practices or procedures that have a disparate impact on the basis of race, color, or national origin. Requirements that information be provided regarding citizenship or immigration status, and requests for social security numbers (SSNs) which are immaterial to eligibility or recertification determinations, may have an adverse effect on the basis of national origin.
- B. Under Section 7(a)(1) of the Privacy Act, DCF is prohibited from denying any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his SSN, unless the disclosure is required by Federal statute or the State maintains a system of records in existence and operating before January 1, 1975, and such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual. DCF may otherwise request that individuals voluntarily provide their SSNs, but such persons must be informed that the disclosure is voluntary and how their SSN will be used.
- C. Regarding non-emergency Medicaid, DCF is required to obtain the SSNs only of applicants for and recipients of Medicaid benefits (Section 1137(a)(1) of the Social Security Act). DCF may not deny Medicaid benefits because the applicant did not provide the SSN of persons who are neither applicants nor recipients of Medicaid benefits. However, DCF agrees not to ask about a person's citizenship or immigration status or request a SSN if the person is only seeking emergency Medicaid services.
- D. Regarding applicants for and recipients of TANF benefits, DCF is required to obtain their SSNs as a condition of eligibility (Social Security Act § 1137(a); 42 U.S.C. § 1320b-

7(a)). If an SSN has not been issued, DCF must assist individuals to apply for one. (45 C.F.R. § 205.52). Although TANF eligibility and benefits generally are based on the circumstances of the family unit, as defined by the state, DCF has flexibility to allow certain family members to designate themselves as non-applicants on the initial application form. DCF is not required to obtain an SSN of a non-applicant. DCF may ask non-applicants for an SSN, but in order to avoid potential violations of the Privacy Act, DCF must clearly indicate that provision of this information is voluntary, and DCF must indicate how the information will be used. DCF may require non-applicants to answer other questions on the application that relate to the family's financial circumstances or other eligibility factors. (See "Questions and Answers to Policy Guidance Regarding Inquiries into Citizenship, Immigration Status and Social Security Numbers in State Applications for Medicaid, SCHIP, TANF, and Food Stamp Benefits." September 21, 2000, www.hhs.gov/OCR/immigration).

- E. Consistent with the above provisions, DCF agrees not to deny benefits or services to otherwise eligible applicants and recipients because the applicants or recipients did not provide information (including certification or documentation) regarding any non-applicants' (including excluded family members') citizenship or immigration status. Consistent with the provisions above, DCF may not deny benefits or services to an otherwise eligible applicant on the basis that the applicant did not provide a SSN for non-applicant family or household members (including excluded family members). If an applicant (or any member of a family assistance unit) does not have a SSN, he or she must be given assistance and a reasonable opportunity to apply for a SSN. DCF must not delay or deny approval of an application for benefits to an otherwise eligible applicant pending issuance or verification of an SSN.
- F. DCF agrees not to deny benefits or services addressed in this Agreement, on the basis of immigration status, to persons who meet the alien eligibility requirements mandated under Federal law.
- G. As a provision of this agreement, DCF agrees that it will allow family members to designate themselves as non-applicants for TANF on the initial application form. Thus, if a household member designates themselves as a non-applicant on the DCF initial application form, DCF will not enquire about their SSN, immigration status or citizenship status for purposes of determining eligibility for other household members.
- H. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), P.L. 104-193, Section 401 prohibited "non-qualified aliens" from receiving any "Federal public benefits." On August 4, 1998, DHHS published a notice in the Federal Register (63 FR 41657) identifying 31 DHHS programs that provide Federal public benefits, and which therefore non-qualified aliens may not receive. In general, grantees under these programs are required to verify immigration and citizenship status of applicants for these programs.

However, the DHHS notice also noted several exceptions to the verification requirements. Under section 432(d) of PRWORA, providers who are nonprofit charitable organizations are not required to determine, verify, or otherwise require proof of eligibility of any applicant for benefits even if they are providers of Federal public benefits as identified in the Federal Register notice.

Section 401(b)(1)(C) of PRWORA exempts “public health assistance . . . for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.”

- I. The Department of Justice issued a Notice, dated November 17, 1997, entitled “Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,” at 62 Fed. Reg. 61344 (the “Interim Guidance”) to assist providers in performing the verification procedures necessary to determine which aliens are “qualified aliens” under PRWORA. That guidance details several important exemptions to the immigrant verification requirements including: the provision of emergency medical care, the protection of certain battered aliens, and the provision of in-kind, community based services that are not contingent on income or resources and are necessary for the protection of life and safety.

The Interim Guidance states, “Because the process of verifying an individual's status as a U. S. citizen, U. S. non-citizen national or qualified alien raises significant issues involving privacy and anti-discrimination protections, no verification of an applicant's status as a U. S. citizen, U. S. non-citizen national or qualified alien should be undertaken where benefits are not contingent on such status.” The Interim Guidance said the first step in verification procedures was to determine if the program in question provides a non-exempted “Federal Public Benefit” subject to PRWORA’s verification requirements. The Interim Guidance states, “If the federal program does not provide a “federal public benefit” covered by the Act . . . the benefit provider is not required to, and should not attempt to, verify an applicant’s status, unless otherwise required or authorized to do so by law, because all aliens, regardless of their immigration status, are eligible for such benefits.” The Interim Guidance also notes that if one program provides several public benefits, PRWORA’s verification requirements apply only to those benefits that are non-exempted federal public benefits.

The Interim Guidance adopts a four-step procedure: (1) benefit providers should determine if their program provides a non-exempted “federal public benefit” subject to PRWORA’s verification requirements; (2) providers should determine whether the applicant is otherwise eligible for benefits under general program requirements; (3) providers should verify the applicant’s status as a U.S. citizen, U.S. non-citizen national or qualified alien; and (4) verify the applicant’s eligibility for benefits under the Act. The Interim Guidance states that, “If at any step you determine that you are not required to

verify (or further verify) immigration status, you should not go on to the following step(s).”

III. GUIDING PRINCIPLES

- A. Through its survey of benefits applications from throughout the nation, OCR has arrived at a set of general principles that significantly enhance the application process for families of mixed immigrant status, as well as applicants with limited English proficiency and for persons with disability-related communication barriers. Insofar as this agreement requires DCF to rewrite or evaluate any of its forms or notices (including but not limited to application forms), DCF agrees that it will try to incorporate, wherever relevant and reasonably practicable, the following guiding principles in evaluating and revising forms, notices and applications.
- B. **Use clear, understandable and necessary language.** This is an overriding principle that helps all applicants, in addition to immigrant families. However, within the context of access to public benefits for families with non-citizen members, this would include the following:
- Use clear language that information regarding a non-applicant family member’s immigration status is unnecessary for the purposes of eligibility verification and that the state will not share the information regarding non-applicant family members with the Immigration and Naturalization Service (INS).
 - Distinguish between a request for information necessary to determine eligibility based on immigration status and requests for information necessary to determine family assets and income. Fraud-prevention warnings should be distinguished from clarification of SSN requirements. Applicants should understand that criminal penalties apply to misreporting of income and assets, not to the absence of an SSN or alien registration number.
 - Place information regarding SSN requirements and other clarifications regarding immigration status early in the application to ensure that it will be read and to encourage doubtful applicants to proceed.
 - Every effort should be made to ensure that public benefits are as accessible as possible. In order to accomplish this goal, irrelevant and frightening language should be eliminated or replaced. Also, sentences should be kept short, contain simple, easy to understand language, and be formatted with a large font and generous margins so that the page is easy to read.
- C. **Clearly defined terminology:** Through formatting and/or the definition of terms, applicants should easily understand the definition of household and household member

and the distinction between an applicant and non-applicant household members. Forms should indicate that non-applicant household members are not required to provide SSNs. This clarification should be made before or at the time that SSNs are elicited.

- D. On application forms, **provide a clear and immediate offer of assistance for persons with limited english proficiency and/or disabilities.** OCR recommends that a language block be developed offering language assistance in the most commonly encountered languages. The primary language of applicants should also be explicitly queried for data collection purposes. American Sign Language interpretation and alternative format materials should also be made available. The offer of alternative formats and interpretation should be located at the very beginning of the application form and works best when enclosed in a box so that people who need this help will see it right away.
- E. On application forms, **include a non-discrimination statement and discrimination complaint process.** Please note the joint USDA-HHS non-discrimination statement recently developed for use on joint application forms:

In accordance with Federal law and U.S. Department of Agriculture (USDA) and U.S. Department of Health and Human Services (HHS) policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. Under the Food Stamp Act and USDA policy, discrimination is prohibited also on the basis of religion or political beliefs.

To file a complaint of discrimination, contact USDA or HHS. Write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice and TDD). Write HHS, Director, Office for Civil Rights, Room 506-F, 200 Independence Avenue, S.W., Washington, D.C. 20201 or call (202) 619-0403 (voice) or (202) 619-3257 (TDD). USDA and HHS are equal opportunity providers and employers.

Food Stamp regulations proscribe that all Food Stamp application forms reference a USDA complaint procedure. However, applications for Medicaid, SCHIP and TANF should also include a discrimination procedure. We suggest that states invite applicants to contact our regional offices if they believe they have been discriminated against. Complaints can be sent to:

Regional Manager
DHHS Office for Civil Rights, Region IV
Sam Nunn Atlanta Federal Center
61 Forsyth St, SW, Suite 3B70
Atlanta, GA 30303-8909

Of course, states also have the option to reference their own complaint procedure on applications.

- F. **Consistent Racial Designations:** The Office of Management and Budget (OMB) released guidance pertaining to racial designations on October 30, 1997.^a According to the OMB Guidance, these amended codes should be adopted by January 1, 2003.

OMB now recommends that “Hispanic/Latino” be separated from racial codes as an ethnic category, and that racial designations be listed alphabetically. OMB also allows multiple selections among the racial codes.

For your information, the OMB minimum designations and preferred format are as follows:^b

Ethnicity (select one):

- Hispanic or Latino
 Not Hispanic or Latino

Race (select one or more):

- American Indian or Alaska Native
 Asian
 Black or African American
 Native Hawaiian or Other Pacific Islander
 White

- G. **Include enrollee participation or representation** on workgroups to voice enrollee concerns and perspective.
- H. **Public charge:** We suggest that the State consider including language within all applications which serves to clarify possible misconceptions regarding the immigration-related “dangers” of applying for Medicaid, SCHIP and other public benefits.

IV. GENERAL PROVISIONS

- A. In consideration of OCR agreeing to forego other available methods to secure DCF’s compliance with title VI, DCF agrees to voluntarily enter into this Agreement to correct the potential and/or existing title VI violations which OCR found in its investigation of national origin minority access to DCF public benefits.

^a See 62 Federal Register 58789

^b See 62 Federal Register 58789.

- B. The parties agree that resolution of the issues addressed in this Agreement is intended to resolve all title VI compliance concerns and/or violations arising from OCR's investigation of national origin minority access to DCF public benefits as detailed in the February 28, 2001 and April 2, 2002 letters to DCF from OCR. However, the parties agree that resolution of the issues addressed in this Agreement is not intended to prejudice any other DCF compliance review or complaint investigation that may be pending before OCR, now or in the future.
- C. OCR agrees to provide ongoing technical assistance as requested by DCF to implement this Agreement.
- D. OCR agrees to bring to the attention of DCF any complaint received by OCR within 1 year of the signing of this Agreement against DCF which involves the matters addressed herein in order to attempt resolution before investigative activity is initiated.
- E. DCF agrees, for 2 years following the signing of the Agreement, to bring to the attention of OCR any changes DCF proposes to make in its application(s), or related computer formats, which involve the matters addressed herein, in order to address any OCR concerns before the change is made.
- F. This Agreement primarily addresses programs under the jurisdiction of the Department of Health and Human Services. Because the Food Stamp Program is administered by the Department of Agriculture, this Agreement does not specifically address Food Stamps. This Agreement also does not specifically address programs funded with State-only funds.

V. SPECIFIC PROVISIONS

This agreement shall be effective for two years, starting from the date that the agreement is signed and dated by the last party signing and ending on the date that is two years from the date of that signature. However, if OCR provides DCF with notice of an alleged breach during the two-year lifespan of this Agreement, the enforcement of that alleged breach, as specified in Section VI of this Agreement, will not be affected by the expiration of the Agreement.

DCF agrees to take the actions set forth below in order to resolve the concerns and/or violations noted in the aforementioned letters that OCR sent to DCF.

A. KidCare Application

- 1. DCF agrees to revise the KidCare application in order to address the concerns and/or violations noted by OCR in its April 2, 2002 letter. DCF agrees to do the following:
 - a. Revise the KidCare application process so that all eligible immigrants are allowed to and encouraged to apply for any KidCare program benefit which is HHS-funded but not a "Federal public benefit", as defined by 63 Fed. Reg. Page 41657 (August 4, 1998).

- b. Revise the KidCare application to comply with the Privacy Act. Indicate clearly that only applicants are required to provide their SSNs and that non-applicants need not provide SSNs. If SSNs from non-applicants, such as parents, are requested, state clearly that the information is voluntary and what the information will be used for.
 - c. Add language to the application which clarifies that SSNs will not be shared with the INS.
 2. DCF agrees that in making its revisions to the KidCare application, the workgroup will consider whether it would be appropriate and more efficient to collect race and ethnicity data on the KidCare application. The KidCare workgroup will also consider placing a non-discrimination statement on the application with contact information for the Region IV OCR office or for DCF's title VI coordinator.
 3. DCF agrees that it will finalize and distribute the new KidCare application by 1/2/03.
 4. As detailed in this Agreement's section on Oversight and Enforcement, DCF agrees that it will allow OCR opportunity to review and comment on the proposed KidCare application before it is finalized.
- B. **Form 2058 (Declaration of Citizenship)**

DCF will create training and/or a memo which addresses why Form 2058 was eliminated and how proper verification procedure should have been changed with the elimination of the form.
- C. **Form 2066 (Request for Assistance)**
 1. DCF agrees to revise the Request for Assistance application in order to address the concerns and/or violations noted by OCR in its April 2, 2002 letter by doing the following:
 - a. Move the "statement of understanding/penalty warning" to a location near the end of the application.
 - b. Change the "statement of understanding/penalty warning" so that it does not deter a non-applicant household or family member who is applying for benefits for other potentially eligible family members.
 - c. Comply with the February 2001 LOF remedial step #11 by allowing ineligible family or household members to be designated as non-applicants on the face of the application form.
 - d. Put information about emergency Medicaid on Form 2066 and revise Form 2066 to ensure that all people eligible for emergency Medicaid are not deterred or systematically denied from obtaining this benefit.
 - e. Include information to clarify possible misconceptions regarding public charge determinations and the fear, prevalent in the immigrant community, that applying for public benefits will disqualify all immigrants from changing their status.
 2. DCF agrees that immigrants who are not "qualified immigrants" under PRWORA may still be eligible for public benefits if the benefits are not classified as "Federal public benefits" as defined by 63 Fed. Reg. Page 41657. If "Other" care listed on the DCF

Form 2066 includes any benefits which are not “Federal public benefits,” DCF will revise Form 2066 to explain what “Other” care is and to ensure that all people eligible for “Other” care are not deterred or systematically denied from these benefits.

3. DCF agrees that in making its revisions to Form 2066, the workgroup will consider the following recommendations from OCR:
 - a. How to make the form easier for the low-literacy population to use and understand.
 - b. Placing near the beginning of the application a blocked out area of text providing an affirmative offer of assistance for applicants with disabilities and for those who need a foreign language or sign language interpreter.
 - c. Before requesting SSNs, inserting a clear statement that DCF does not share SSNs with the INS.
 - d. Whether collecting racial/ethnic data on the benefit application would be a more accurate and efficient way to collect this required data.
 - e. Include the new joint USDA-HHS non-discrimination statement, prefaced with an explanatory statement in plain English.
4. DCF agrees that it will finalize and distribute the new Form 2066 by 1/2/03. As detailed in this Agreement’s section on Oversight and Enforcement, DCF agrees that it will allow OCR opportunity to review and comment on the proposed application before it is finalized.

D. Rights and Responsibilities Form

1. DCF agrees to organize a workgroup that will consider the following OCR recommendations:
 - a. If SSNs will not be shared with the INS, make this clear.
 - b. Move information about criminal action to a context dealing with income and not the provision of SSNs.
 - c. Clarify that eligible family members can still obtain benefits if other family or household members are ineligible for benefits and do not provide their SSNs or immigration information.
2. DCF agrees that it will finalize and distribute a revised Rights and Responsibilities Form by 1/2/03 or that it will notify OCR by 10/30/02 why revising the Form is not feasible or advisable. As detailed in this Agreement’s section on Oversight and Enforcement, DCF agrees that it will allow OCR opportunity to review and comment on the proposed Form before it is finalized.

E. Form 2083 (KidCare Immigration Status)

By 1/2/03, DCF will either cease using this form or revise it so that it does not appear to require citizenship information when the receipt of benefits is not contingent on such status.

F. Form 2092

By 10/30/03, DCF will either provide clarifying information to OCR as to why this form does not raise Privacy Act or title VI concerns or DCF will revise the form to address OCR's concerns noted in the April 2, 2002 letter.

G. Form 2093

By 12/30/03, DCF will revise this form to clarify that only children in the household who are applying for the benefit need to provide their SSN. Alternatively, by 12/30/03 DCF will eliminate the form and send a transmittal to all DCF districts advising them of the deletion and revised procedures.

H. Form 2284

1. DCF agrees that the application for an applying child in a household should not be delayed or halted if another child in the household does not provide an SSN.
2. DCF will review its policies and procedures to ensure that the application process is not discontinued or delayed if a non-applicant in a household does not provide his or her SSN.
3. If DCF's review suggests that any policies or procedures need to be modified to ensure the application process is not discontinued or delayed in the above situations, DCF will revise policies and procedures as necessary by 12/30/02.

I. Outreach

1. DCF understands that a large proportion of poor families in Florida contain immigrants. DCF also understands that approximately 80% of immigrant families contain citizen members who should have equal access to public benefits as citizens in similarly situated citizen families. DCF understands that immigrant participation in public benefit programs has been hampered by confusion and fear unique to the immigrant community.
2. In consideration of the large number of persons who are eligible for public benefits in low income immigrant households and families in Florida, DCF recognizes that it would be a worthwhile goal to devote a corresponding proportion of its outreach budget to create outreach materials and projects to increase participation by eligible persons in immigrant households.
3. DCF agrees that it will determine the approximate amount allotted for outreach to the general population as opposed to immigrant households. DCF will consider whether the amount allotted for outreach to the immigrant community adequately corresponds to the number and needs of low income immigrant households in Florida.
4. By 10/30/02, DCF will briefly report to OCR on its findings.
5. As appropriate, DCF will implement any changes necessary by the beginning of DCF's next fiscal year.

J. Written Guidance/Training

1. DCF will establish a workgroup to review existing policy.
2. By 10/31/02, DCF will review its Non-Citizen Guide and all other policies and procedures for requesting and verifying citizenship and immigration status and

SSNs to ensure that DCF staff do not inappropriately request or require this information. DCF will also review its "Outreach Concept" policy as found at Chapter 400, Section 805.10.00 of DCF's Administrative Policy to ensure that this policy does not create an incentive for DCF staff to inappropriately request or require information from non-applicants.

3. DCF agrees that it will finalize and distribute policy revisions or clarifications to its districts by 1/2/03. As detailed in this Agreement's section on Oversight and Enforcement, DCF agrees that it will allow OCR opportunity to review and comment on the proposed revisions before they are finalized.
4. DCF will develop training on requesting and verifying citizenship or immigration status information and SSNs. DCF will deliver this training to all districts.
5. DCF agrees that its training workgroup will consider the request of the Rural Christian Migrant Association to provide input and to partner with DCF in training DCF staff on issues which affect immigrant access to public benefits.

VI. OVERSIGHT AND ENFORCEMENT

- A. DCF will submit monthly status reports and submit documentation showing its progress towards fulfilling all aspects of this agreement.
- B. Within 20 days after receiving copies of the documentation required by Sections V(A)(4), V(C)(4), V(D)(2), and V(J)(3), OCR shall notify DCF of the adequacy of the revised forms. DCF shall make such changes that OCR reasonably determines are necessary to comply with the terms of this Agreement.
- C. The parties agree that if OCR determines that DCF has materially breached any provisions of this Agreement, OCR shall notify DCF of the alleged breach in writing within 10 business days of the date of the discovery of the alleged breach. The notice shall be delivered to DCF by certified US Mail, Return Receipt Requested, within 10 business days of discovering the alleged breach. The notice shall be addressed and delivered to DCF as follows: "Secretary, Florida Department of Children and Family Services, 1317 Winewood Boulevard, Building 1, Room 202, Tallahassee, Florida 32399-0700". DCF shall have no less than 30 days to investigate the facts and circumstances surrounding the alleged breach and respond to OCR in writing with its findings.

If DCF finds that OCR's notice has merit, DCF shall develop a written corrective action plan that is designed to correct the breach. However, at the option of DCF, implementation of the corrective action plan will not commence until after discussions with OCR concerning the sufficiency of the plan have concluded. OCR reserves the right to take appropriate action to enforce the provisions of this Agreement, including referring the matter to the Department of Justice for enforcement, however, OCR will not refer any matter to the Department of Justice for enforcement if OCR determines that DCF is acting in good faith compliance with the terms and conditions of the corrective action plan.

If DCF disagrees with OCR's determination of a material breach, DCF's written findings shall explain why no breach has occurred. If OCR agrees with DCF's determination, no further action will be required. If OCR still determines that a material breach has occurred, it will allow DCF 30 days to develop a written corrective action plan designed to correct the breach. However, at the option of DCF, implementation of the corrective action plan will not commence until after discussions with OCR concerning the sufficiency of the plan have concluded. OCR reserves the right to take appropriate action to enforce the provisions of this Agreement, including referring the matter to the Department of Justice for enforcement, however, OCR will not refer any matter to the Department of Justice for enforcement if OCR determines that DCF is acting in good faith compliance with the terms and conditions of the corrective action plan.

- D. DCF agrees to retain the records and to provide the written documentation required under this Agreement. DCF also agrees to provide other information as may be requested and necessary to assure OCR that the provisions of this Agreement have been fulfilled.
- E. This agreement does not create a private right of action for third parties.

VII. SIGNATURES

The following parties enter into this Agreement.



Jerry Reiger, Secretary
Florida Department of Children and Families

Date: 12/26/02



Roosevelt Freeman, Regional Manager
Office for Civil Rights

Date: 11/07/02