

BURGOS CONSENT DECREE SUMMARY

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In January 14, 1977, the Burgos Consent Decree was entered by Judge McMillen, thus ending class action litigation between Hispanic families and the Illinois Department of Children and Family Services (IDCFS) begun almost two years earlier. The plaintiffs in the case argued that Hispanic families were being excluded from full participation and were being denied the benefits of, and being subjected to discrimination on the basis of their national origin and race in such programs and were seeking relief pursuant to Title VI of the Civil Rights Act of 1964. Essentially, the Burgos Consent Decree seeks to ensure that Hispanic families who are Spanish speaking be provided full and adequate services by IDCFS.

By 1989, plaintiffs had filed several motions, including one which resulted in a 1982 stipulation, and asked the Court for a ruling that IDCFS be held in contempt of Court for violating the Consent Decree. On December 12, 1990 the plaintiffs and the defendant had the Court enter an agreed order expressly indicating the defendants were not in compliance with the Consent Decree and appointing a Special Master to prepare a compliance report. After reviewing report findings, parties entered into the December 4, 1991 Agreed Order which resulted in the appointment of a permanent Court Monitor on March 16, 1992.

The decree orders the Department of Children and Family Services (IDCFS), and its vendors to provide child welfare services in Spanish to Hispanic clients whose primary language is Spanish, requires children with Spanish-speaking parents to be placed with Spanish speaking foster parents and requires individual or general written communications to Spanish speaking clients to be in Spanish. Under the decree a Hispanic is defined as persons of Puerto Rican, Mexican, Central American, South American and other Hispanic origin. The stipulations of the Consent Decree and Agreed Order are as follows:

LANGUAGE , TRANSLATION & COMMUNICATION NEEDS

- (1) All Hispanic clients must be informed of their rights under the Burgos Consent Decree, and how to maintain those rights.
- (2) IDCFS must post the availability of bilingual services and/or interpreters by posting a notice in both Spanish and English in a conspicuous place in every Chicago area IDCFS office and by making reasonable efforts to advertise same in the Spanish media.
- (3) IDCFS must identify Hispanic clients and have them sign a Primary Language Determination form in English and Spanish indicating their language of preference. This determination must be completed by a bilingual social worker.
- (4) Ascertaining communication needs of every Hispanic parents/children (class members) should happen at first contact. Communication needs should be properly documented throughout and within all of the defendants' files and materials.

- (5) IDCFS shall provide its Spanish speaking clients with information regarding child welfare services in Spanish, including Spanish translation of any literature, correspondence, form or document directed to them.
- (6) IDCFS must establish a procedure for translating immediately all pertinent materials to the Spanish language as these materials are developed.
- (7) Any document requiring the client=s signature on an English version of the same shall include a signed affidavit from the bilingual employee who served as translator.
- (8) Minors cannot be used as interpreters under any instance.

BILINGUAL STAFFING

- (1) IDCFS must have adequate bilingual staff capacity to assign bilingual workers to Spanish speaking families.
- (2) A bilingual staff person must be available in the Chicago central office to provide clients with assistance on specific inquiries or complaints concerning the provision of child welfare services.
- (3) Bilingual workers must not be overburdened with substantially higher caseloads than their English speaking counterparts.

AVAILABILITY, ACCESS, AND MONITORING OF SERVICES

- (1) IDCFS cannot deny services to parents or children on the basis of client language. Hispanic families and children should be provided with all the child welfare services available to non-class members. Language should not be a barrier to the receipt of services.
- (2) IDCFS and its vendors cannot discriminate clients on the basis of race, color, or national origin in providing services to which clients are entitled.
- (3) IDCFS must provide the family with bilingual social workers and bilingual employees who must provide the child welfare services.
- (4) IDCFS and its vendors must provide essential and adjunct child welfare services in the Spanish language, any service involving direct client contact/communication.
- (5) IDCFS must maintain records identifying all social workers and vendors providing child welfare services and whether bilingual workers and services are available.
- (6) IDCFS must develop a procedure to determine the language fluency of its vendors, including foster parents, and to ensure that the Department does not contract for services with a vendor which cannot provide services in the appropriate language.

- (7) IDCFS must conduct annual civil rights compliance reviews for each vendor with whom it has contracted to provide services to Hispanic clients.

PLACEMENT VIOLATIONS, SUBSTITUTE CARE RESOURCE DEVELOPMENT AND MONITORING

- (1) Care for children in IDCFS custody must be as nearly as possible equivalent to that of child=s parents.
- (2) Children of Spanish speaking parents must be placed with Spanish Speaking foster parents.
- (3) Placement in Spanish speaking home must occur within 60 days from the date the child is removed from the home.
- (4) IDCFS must record the total number of Spanish speaking children whom it has attempted to place pursuant to Burgos, the number of children it could not place within stated time limits, and a summary of all measures IDCFS took to locate child welfare services for each individual child who could not be placed.
- (5) The Coordinator shall submit a monthly report to the Monitor with a listing of all Spanish speaking children placed improperly in English-speaking homes during the prior month. The report shall be cumulative and include a summary of all measures IDCFS has taken to locate child welfare services for each individual child who has not been properly placed.
- (6) The monthly report shall include the following information for each placement violation: IDCFS ID #, Date of Birth, Sex, language, Race/Ethnicity, Date & Reasons for Case opening, IDCFS Worker, Worker=s Language, current type/date of placement, number of days in substitute care, private agency/vendor names, Foster Parents= names, languages spoken by foster Parents, Family Race/Ethnicity, Family Language, etc.

TRAINING & STAFF DEVELOPMENT

- (1) IDCFS shall train , at least once each fiscal year, all employees with direct client contact, their supervisors and administrative staff with substantial client contact responsibilities, on the requirements of the Consent Decree, including communication access and cultural competence.

BURGOS DATA REQUIREMENTS AND DATABASE MANAGEMENT

- (1) Key information must be computerized to allow for adequate tracking of monitoring data.
- (2) IDCFS must maintain records identifying by national origin and primary language all Hispanic clients who should be receiving child welfare services.