

Adoption:

A Guide for Nebraska Foster & Adoptive Families

May 2003



Acknowledgements

NFAPA would like to thank the members of the advisory group that provided input into the content of this publication. Special thanks to the Nebraska Department of Health and Human Services for their support, information and expertise in making this publication possible.

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May 2003

Dear Friends,

On behalf of the Nebraska Foster and Adoptive Parent Association, I would like to thank you for considering adoption of a child in need of permanency.

Laws and policies surrounding adoption, specifically those in regard to subsidies, have been misunderstood at many levels. Many times, potential parents are so eager to adopt that they may not fully investigate their rights as adoptive parents. This publication was designed to help adoptive parents understand the adoption process, laws, and policies. Agencies and organizations will also benefit from this publication.

I would like to thank the advisory committee comprised of adoptive parents, therapists, and attorneys for their assistance with this publication. I would especially like to thank the Nebraska Department of Health and Human Services for their overwhelming support, guidance, and expert advice in ensuring accuracy of this publication.

I hope that you find this publication useful. For additional support and guidance on the adoption process, feel free to contact the NFAPA office, toll-free at 877/257-0176.

Rex Burt
President, NFAPA



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Preface

This publication serves as a guide for potential adoptive parents interested in adoption through the Nebraska Department of Health and Human Services (hereinafter referred to as the Department). The information outlines what you can expect from the time of foster/adoptive placement through the finalization of the adoption and is current as of May 2003. In Nebraska potential adoptive parents must be licensed as foster parents. However, exceptions can be made for relative placements. This publication does **not** cover the foster care licensing process, but assumes the reader has already become licensed and is now preparing to adopt.

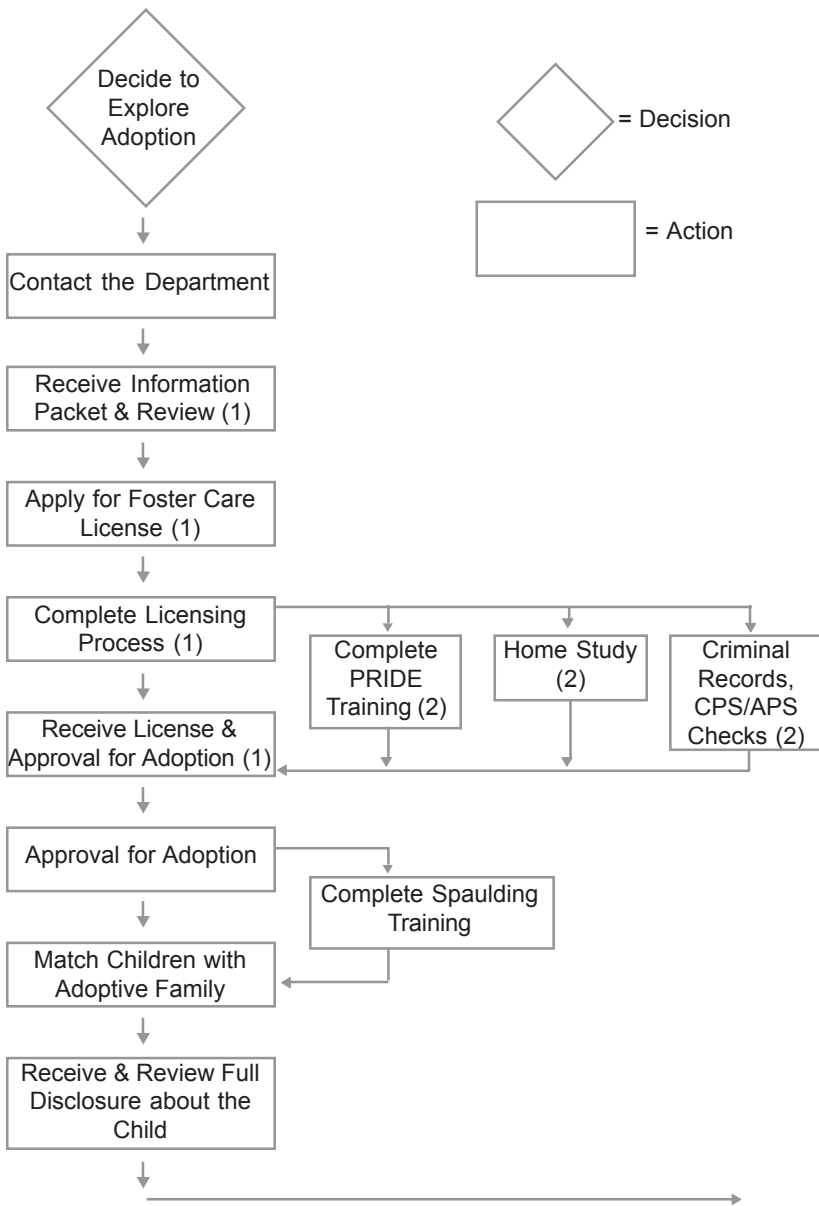
There are other types of adoption that are not covered in this publication, including adoption through a private attorney, a private adoption agency, and international adoptions. The definitions of those types of adoption are included in the **Glossary** section of this guidebook, and links to additional information about those types of adoption can be found in the **Reference** section.

Covering the entire process, beginning with removal from the birth parent's home through adoption, or all the different types of adoption is not the intent of this publication. (It is also important to note that practices vary around the state, so your experience may differ from that outlined in this publication.) It is our hope this publication will provide you with a clear and easily understood overview of the adoption process through the Department, and serve as a general guide as to what you can expect in a typical situation.

In developing this publication, the Nebraska Foster and Adoptive Parent Association (NFAPA) convened a group of experts, including representatives from the Department, private agencies, adoptive parents, therapists, and attorneys to provide input and lend valuable expertise regarding the content. This group collectively determined the most important information to include in this publication, while ensuring its practicality and readability for potential adoptive families.

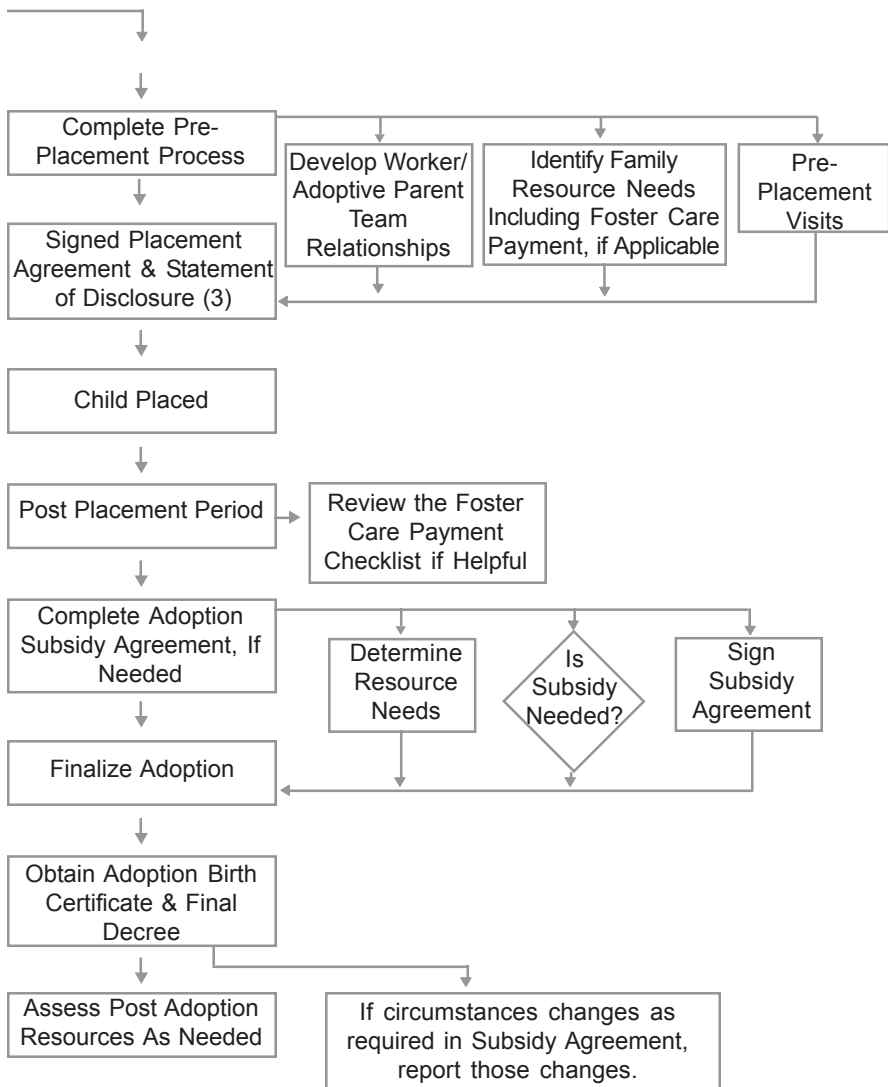
Information about Interstate Compact, while important, was viewed as too complex to describe in this publication. If you have questions that are not answered in this guidebook, contact the person completing your home study, or call NFAPA at 877/257-0176.

Adoption Flow Chart



(1) = Footnote 1: Relatives who want to adopt are encouraged to follow these processes, however these steps are not mandatory.

(2) = Footnote 2: The order in which these steps occur varies around the state.



(3) Footnote 3: For families adopting a child living with them as a foster child, the adoption process starts here. It is recommended that the foster parents again review the child's full record.

Considering Adoption

I've decided to explore adoption; what are my first steps?

This publication focuses on the actual adoption process, but there are steps you must take prior to moving through this process, including:

- Making the decision to explore adoption – Adoption is a serious, long-term commitment to a child. For more information to help you make that commitment contact the NFAPA office or see the other resources in the **Reference** section of this publication.

- Contacting the Department of Health and Human Services – If you have decided to adopt through the state, the Department is the agency you'll be working with. You may contact your local Department office or call 1-800-7PARENT (772-7368).

- Reviewing the information the Department sends you – After you've made contact, the Department will send you information about the licensing/approval process, and about adoption through the State of Nebraska.

- Applying for foster care licensure – In Nebraska, you must be licensed as a foster care home; however exceptions can be made for relative placements. The training (called PRIDE) that goes with the foster care licensing process will help you decide whether you want to proceed. All parents must complete this training and a home study in order to be licensed.

For more information about the foster care licensing process or these early steps, contact your licensing worker or NFAPA.



Remember!

You can say no at any time, especially at the end of PRIDE and before taking the child into your home (placement). During this process, some families decide adoption isn't for them.

Pre-Placement

What should I expect from the adoption home study?

The home study process

The home study is a detailed report about your home and family environment. It is usually compiled after a worker has visited your home on a number of occasions. During those visits, the worker will assess your parenting skills and abilities as well as your physical home. There is also necessary paperwork to complete as part of the approval of an adoptive home. The process of collecting information for the home study should take, on average, two months.

The worker will talk with **all** members of your family. You will discuss some of the following topics:

- Your family background
- How you were raised and how your parents disciplined you
- How you parent
- Your strengths as a family
- Why you want to adopt
- Your discipline practices and philosophies
- Your health, and the health of all members of the family
- Your current employment status and history
- The characteristics of potential adoptive children that will match well with your family
- Whether you are financially able to care for a child(ren)

You and the home in which you live must be approved. In order to adopt a state ward in Nebraska, you must be licensed or relative approved as a foster family as well as being approved for adoption. If you are already licensed or approved to provide foster family care, it is likely that your home already meets these requirements.

Background checks (Central Register child abuse and vulnerable adult abuse, Register of State and National Criminal History, and Sex Offender Register) must be current within one year of placement. If you had one or more of these checks completed more than one year ago, they will have to be repeated if you plan to pursue adoption through the state.

When a previously approved foster or adoptive parent applies for licensure, the National Criminal History Check done for the previous approval process can be used unless the foster or adoptive parent has lived outside Nebraska since the approval check occurred or unless the approval check was done more than twelve months ago.

Running National Criminal History Checks with fingerprints is a relatively new practice in the State of Nebraska. It is required of all adoptive parents and all other persons age 18 or older living in your home.

Additional requirements

You will be asked to complete an application and a self-study. The self-study is a questionnaire all adoptive parents must complete that covers many of the topics included in the home study, so it is useful in helping you think through many of the issues the home study worker will want to discuss with you and your family. Finally, you'll be asked to provide some references for the home study worker to contact.

Often, the state will merge the home study process for both foster and adoptive care. One report will then be generated to satisfy both needs. If you're not licensed as a foster family and are certain you want to pursue adoption, you should ask your worker to coordinate these two studies, in an effort to save time.

Will I receive training?

If you've become licensed as a foster family you already will have completed the PRIDE foster care pre-service training. In addition, adoptive parents are strongly encouraged to complete adoption pre-service training. The model used in Nebraska is developed by Spaulding, and is entitled, *Making the Commitment to Adoption*. This is a 12-hour training and is offered at no cost to prospective adoptive parents. The training is conducted by the Department and is held periodically throughout the state. Contact your local Department office to find out when the training will be held near you.

For more information about state and national training opportunities, contact the NFAPA office at 877/257-0176.



Tips on Preparing for the Adoption Home Study

- Complete the foster care licensing process. This is your first important step. Note: if you are a relative of the child you want to adopt, you must be approved but you are not required to complete the licensing process. It is encouraged, however, because it will help prepare you to parent the child.
- Before beginning the home study process, think about the characteristics of children you believe will fit in well with your family and discuss these kinds of things with other family members.
- Educate yourself about the adoption process, by reading this publication, or reviewing other resources such as those listed in the **Reference** section of this publication. NFAPA is also a good resource for support and information and can match you with a mentor to support you through the process.
- Think about questions you may have for the adoption worker in advance of the visit.
- Think about why you want to adopt.
- Be patient. The adoption home study process takes time.

What is the adoption placement process?

The process

Once your family has been identified as having the ability and characteristics to meet a specific child's needs, you will be notified. The child's worker and your home study worker will coordinate initial contact with you about the child. More detailed information is shared at that time. The child's worker will provide you with complete background information on the child. At this meeting, you can expect to learn about the child's:

- Strengths and interests

- Social, genetic, medical, psychological, and educational backgrounds
- Current development, personality, and special needs (if any)
- Child's behavior's, including:
 - acting out in school
 - problems getting along with other children
 - history or problems of a sexual or violent nature
- Anticipated future needs
- Requests or expectations regarding openness of the adoption

A written summary will be prepared by the child's worker and provided to you and your family.

The worker will discuss your financial responsibility for the child and, if appropriate, the availability of a subsidized adoption. When you adopt the child, you are financially responsible for that child. However, when the child qualifies for a subsidy due to having special needs, you can negotiate a subsidy agreement with the Department. The subsidy is designed to assist with, not fully cover, all your expenses related to parenting this child. It is important that the worker and your family work together as a team to determine how you will meet the child's needs and how the subsidy can assist you.

Pre-placement visits

You may be asked to prepare an introductory book describing your family. The worker to give the child to introduce yourself. This book may include pictures of your family, pets, home and school where the child will attend.

You will first meet the child in a comfortable setting. Assuming your family and the child are interested in proceeding with further visitation, you'll have a series of planned, pre-placement visits spanning several weeks. You should ensure those visits are not always special events or outings, but include time that is just normal family routine, so the child can observe and participate in your family's everyday activities.



Tips on deciding whether to accept the child in your home

- Review the material provided carefully. Share appropriate information with the immediate family as everyone will be affected by opening your home to this child.
- You may want to meet with the child's physician, therapist, previous foster parents, placement staff, teachers, or other professionals working with the child. The worker will help coordinate meetings. **Make sure you and your family maintain confidentiality when gathering this information!**
- Remember, the pre-adoptive placement provides time for you and the child to see whether or not you are all willing to make a permanent commitment. It is a very serious decision that requires careful consideration.
- Make sure all members of the immediate family – children and adults – are willing to accept the child in the home.
- Adoption can impact your relationships with extended family members. Consider this as you make your decision.
- Talk with other adoptive parents.



Remember!

You can decide not to accept a child and still be considered for other children.

Before the child is placed with your family, the worker will assess everyone's readiness including the following:

- Your acceptance of the child's links with his or her past
- Whether other children in the home (biological and other) are prepared
- Whether the child's lifebook is current
- Whether assessments are completed on your family and the special needs assessment of the child, if relevant
- Whether the child has begun to work through grief and separation
- Your understanding of the grief process
- Whether your family and the child have accepted support services
- Your involvement and participation in the home study, preparation processes, and decision-making

When the placement date has been scheduled, the worker will:

- Notify the court, the child's guardian ad litem (attorney), and the current foster parents
- Provide you with the most current medical information, including names of physicians and dentists, immunization records, child's health record, and any other significant medical information
- Meet with or notify the school the child will attend, if different
- Clarify your rights and responsibilities after placement, including:
 - The financial responsibility you will have after the placement
 - The purpose of post-placement services
 - If you still have questions about the possibility of an adoption subsidy this might be a time to ask the worker for clarification.



Tip

You may want to start thinking about resources available in your community which would support the child and your family. Resources to consider may include childcare, respite, and recreational activities.

Placement

What happens on placement day?

You may consider planning a moving day celebration to welcome the child to your home. If you haven't already received the relevant information about the child, the worker will provide written copies of the information about the child and will ensure that you have signed the placement agreement, etc.

At the time of placement, you will receive the following forms:

- Statement of Disclosure, Nebraska Health and Human Services System, PS-0882 Rev. 9/98
- Child Placement Agreement
- Copy of the Foster Care Payment Determination Checklist for review and to update if necessary
- Adoptive Placement Agreement, Nebraska Health and Human Services System, DSS-AR-61 Rev. 9/98

Once the child is placed with you, you can access the child's case file, but you will have to go to the Department in order to read the file. Start with your local office. If they have questions about your right to access the file, go to the adoption specialist in the central office. You have the right to read and take notes on the file, but not to have a copy of the entire file. Psychological evaluations, school reports, etc. are the types of reports that offer useful information. You do not have access to reports conducted before the child became a state ward.

When does the foster care placement become an adoptive placement?

The Department considers the placement of a child in a foster family home to be an adoptive placement when **all** of the following conditions are met:

- The child is legally free for adoption (all appeals are exhausted)
- The family is approved for adoption (the home study is complete and approved)
- The adoptive placement agreement has been signed

Federal Law (Adoption and Safe Families Act, 1997, or ASFA) and Nebraska Statute allow use of concurrent planning. It is the process of developing and implementing a plan to reach a permanency objective while simultaneously developing and implementing a plan to reach an alternative permanency objective.

Through concurrent planning, the Department will likely place the child with a foster family that is willing to work toward reunification, including being involved with the birth parents. At the same time, the family will agree to becoming the adoptive family for the child should adoption become the alternative permanency plan or help prepare the child for the move to another home, for purposes of adoption.

Does the Department supervise the placement?

In some areas of the state, the case will be transferred to an adoption worker. In other areas of the state, the same worker keeps the case through finalization. Whomever the worker is, supervision will continue including face-to-face visits with you and the child until finalization. Nebraska Statute requires a child to live in the adoptive home for a minimum of six months before finalization can occur.

Is financial assistance available after I adopt?

Adoptive parents assume all financial responsibility for the adopted child. Nebraska has a subsidized adoption program. If the child has special needs and is determined eligible, **and** an agreement has been reached between your family and the Department, you will receive a subsidy to assist with costs associated with raising the child and Medicaid coverage.



Remember!

If the child is eligible and a subsidy agreement is not negotiated and approved before finalization, it cannot be approved later. Medicaid coverage must be approved before finalization as it is part of the subsidy agreement.

The definition of special needs can be found in the **Glossary** section of this publication. It is very important to consider, and if appropriate, negotiate for assistance prior to the finalization of the adoption.

What do I need to know about the subsidy?

The program was developed to ensure financial barriers or costs associated with a child's special needs do not prevent adoption. A child can be determined to have special needs based on the following:

- Child is over the age of eight years;
- Is a member of a sibling group of three or more being placed together;
- Has a physical, mental, or emotional disability;
- Is a member of a minority race (although race alone cannot be the only criteria met in order to qualify); or
- Has a strong attachment to the foster/adoptive parents by whom the child is to be adopted, so that breaking the attachment would be harmful to the child.

The subsidy is to be used by parents to meet the child's needs, not to supplement the parents' income or reward them for the adoption. The application and subsidy agreement must be completed and approved before the adoption finalization hearing. The subsidy amount is negotiated between the potential adoptive parents and the Department, however it cannot be more than what you would be reimbursed while the child lived in foster care as determined by the Foster Care Payment Checklist.

The subsidy program is designed to address a variety of situations and circumstances, all of which will not be covered in this publication. Rather, the key elements of the program, primary things you should know about the subsidy, and tips for you to consider when negotiating the subsidy are covered.

Subsidy forms and documentation requirements

Although when and in which order the following forms are completed varies, they must be completed before finalization.

- Determination of Child's Eligibility for Subsidized Adoption, PS-AS-50, to be completed by the worker and approved by designation adoption staff
- Application for Subsidized Adoption, PS-AS-51, to be completed by the worker or parents, signed by both, and approved by designated adoption staff
- Agreement for Subsidized Adoption, PS-AS-52, to be completed by the worker and signed by the parents **if** the subsidy is approved by designated adoption staff
- If pre-existing medical needs are to be covered, documentation for each condition is to be included consisting of a recent (no older than six months) report from a physician or qualified practitioner which states:
 - o Diagnosis
 - o Current and future care or treatment required or likely to be needed
 - o If a specific procedure is required, when it will likely be completed and an estimate of the cost (required for dental or orthodontic work)



Remember!

You must promptly report to the Department any change in your family circumstance that would affect your subsidy to the Department.

The inclusion of Medicaid in a subsidy can insure that your child's current and future needs are met.

One-Time-Only Subsidy Agreement

The Department can approve through an application process, a “One-Time-Only” (non-recurring) Subsidy for special needs children. This type of subsidy has a maximum payment of \$1,500 of reimbursed expenses and can be approved for such things as necessary travel for pre-placement visits with your child or legal fees for the adoption. Again, talk with your worker about what this type of subsidy might provide for you.

Adoption Subsidy for an SSI Eligible Child

The Federal Government has determined that any child who is SSI eligible, as determined by the Social Security Administration and is being adopted will qualify for ongoing adoption subsidy. This includes children who are wards of the Department, wards of a private adoption agency, or children adopted privately. The subsidy must be approved by the Department prior to the finalization of the adoption. Contact NFAPA for more information.

Ongoing review and changes to the subsidy agreement

Once you’ve renegotiated the amount and your subsidy is approved, and the adoption is finalized you will no longer have a worker. Your subsidy agreement will be reviewed by the Income Maintenance worker in charge of your subsidy only if there is a change in circumstances (such as a move) or upon request by the family. You can request an increase in the subsidy rate if your child encounters an unusual expense not generally incurred by a family and which is based on the child’s special needs. Other reasons to revise the agreement include:

- Change in your family circumstances
- When a change in law or regulation indicates the need for revision
- Your family no longer needs the amount of maintenance you had been receiving
- Your child is placed outside your home

(These revisions could be initiated by the Department.)

Extent of coverage

In almost every case, Medicaid is included as part of the subsidized adoption. If you have private health insurance, providers (doctors, dentists, or hospitals) will be expected to bill your private insurance first.

Just like with private insurance, some services are not covered by Medicaid. For example, orthodontic work generally is considered to be “cosmetic” and therefore usually is not covered. As is true with private insurance, some services need prior approval before obtaining that service, such as counseling or therapy. Be sure to ask if a provider accepts Medicaid.

Many adoptive parents have asked whether the Department will pay for out-of-home placement for a child once the adoption is finalized. Subsidy does not cover payment for out-of-home care unless the care is for purposes of mental health treatment and is paid for under Medicaid. Placements such as group home care will not be paid. However, it is possible for Medicaid to pay for support services to help you work through problems and keep your child in your home. Seek help early from resources such as the Department or NFAPA so that a situation does not enter into crisis.

Appeal of the subsidy decision

You have a right to appeal denial of a child’s eligibility for a subsidy, as well as changes in the subsidy agreement. You may use forms provided by the Department or a written letter, and you must appeal within 90 days of the action or inaction on subsidy. No change in coverage will occur while the appeal is pending. A hearing will be held subject to the Department Director’s review within six weeks from the date of the request unless you waive the time condition. If there are no special or unusual circumstances, the Director will make the decision within 60 days from the date of the request for hearing.

If you disagree with the Director’s decision, you may appeal to the judicial system.

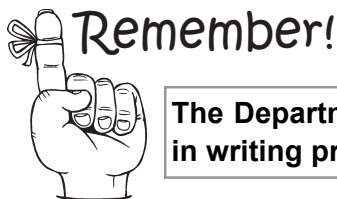


Tips on successful subsidy negotiations

- Understand the subsidy process!
- Read the child’s case file and make notes of diagnoses, reports available, or other indications of special needs

- Assist the caseworker in obtaining the necessary documentation. Make sure all the child's current and past diagnosis are listed in the subsidy agreement
- Keep in mind the types of things that can be covered by subsidy, such as respite care, child care, psychological, physical, and dental needs
- Negotiate the subsidy with the worker as close to the time of adoption as possible. It must be approved before the adoption is finalized
- Request a review of the Foster Care Payment Determination Checklist in writing prior to finalization
 - Your checklist should offer a true assessment of the child and be as accurate as possible
- Know your Income Maintenance worker who has the ongoing subsidy case. If you don't know who your worker is, contact your local Department office where you adopted or the Systems Advocate Office at 402/471-6035
- If a medical or psychiatric professional has documentation of the child's predisposition for future problems or anticipates future problems, these concerns need to be documented in a letter from the professional and added to the subsidy agreement.
- Remember, while you might have a strong attachment, the child may not have the same level of attachment to you. A determination of special needs is based on the child's attachment, not yours.
- You can arrange for direct deposit of your subsidy checks. Contact your adoption worker to learn how to make those arrangements.
- Understand that subsidized adoption agreements terminate upon the death of the parents listed on the subsidy and the subsidy cannot be transferred from the adoptive parents to anyone else.

- After finalization, talk to your accountant or the Internal Revenue Service to learn what deductions are allowed for your newly adopted child and whether your subsidy will be taxed.



The Department must approve the subsidy in writing prior to finalization of adoption.

If you move out of Nebraska, your maintenance subsidy will always come from Nebraska, but if the child qualified for a subsidy from the federal government (IV-E eligible), Medicaid will come from the new state in which you reside. If you move and the child is not IV-E eligible, you may have to find medical providers willing to accept Nebraska's Medicaid program.

If you are no longer caring for the child, your subsidy may be terminated. It is your responsibility to notify the Department of the change in circumstances. Collecting subsidy that is not used to support the child may be considered fraud.

Should I allow an open adoption?

One of the most important decisions you'll make is whether or not to allow an open adoption. There are many things to consider as you make this decision, but there are other people involved in this decision as well. The Department will also look at the best interest of the child when making a decision on openness. Prospective adoptive parents and the birth parents may enter into an agreement regarding communication or contact that will occur after the adoption. Refer to

Note

If you have adopted or plan to adopt children from different families, you might encounter different arrangements relating to openness. For example, one child you adopt from one family might have yearly visits between the child and his or her birth parents, while another child you adopt may have no contact with his or her birth family. Understandably, this situation can cause confusion for the children. This is an important consideration as you weigh this decision.

the **Glossary** section of this publication for definitions on the different types of open adoption.

Nebraska statute recognizes the following two types of court-ordered open adoption:

- Open adoption, in which there is a contract between birth parent and child after adoption
- Exchange of information, in which information about the child is exchanged through the worker, not directly between the birth and adoptive families

Sometimes an informal agreement is reached between birth and adoptive families in which there is contact. Unless this agreement is written into the court order, it is not legally binding.

It might seem as though the easiest or best route to take is a closed adoption; but that is generally not the case. Maintaining contact with significant people in a child's life is extremely important. Whether it is members of the birth family, siblings, former foster parents, teachers, or other adults, it is important that adoptive parents support and encourage these attachments. Ultimately, the child's overall well-being and ability to form attachments with you will depend largely on those other long-term attachments.

Consider the following pros and cons on the next page when you are making your decision regarding openness.

Open adoption pros

- The child doesn't feel compelled to search for members of the birth family
- You will have access to current health information of the birth family
- Open adoption can help the child deal with identity issues during adolescence
- Open adoption may be comforting to the birth parent(s) and may help them make a decision to relinquish a child
- Open adoption may help the child understand why he/she is not with the birth family
- Open adoption helps prevent the creation of fantasies about the birth family
- Open adoption eliminates the child blaming of the adoptive parents for not allowing contact

Open adoption cons

- Sometimes birth parents disappear, causing the child heartbreak and confusion
- Birth families can become intrusive for the adoptive family
- Both the adoptive family and the birth family may feel threatened by the child's feeling of love for both



Sometimes open adoption is not possible. There may be cases when standing court orders prohibit contact between the child and one or both birth parents or there are other compelling reasons that open adoption is not in the child's best interest.

Open adoption doesn't always mean there is contact between the birth parents and the adoptive parents. It can mean that there is contact with birth siblings, half siblings, extended family, or even former foster parents. Essentially, open adoption can occur to maintain contact with any significant others in the child's life.

Open adoption doesn't always mean visitation between birth family members and the child. Sometimes, the birth parents and child can exchange letters, photographs, or other information through the Department for privacy of the adoptive family.

Adoption Finalization

When will the adoption be finalized?

The adoption can be finalized after the child has been placed with you for at least six months, either in a foster care placement or pre-adoptive placement. When you are nearing finalization and the three criteria discussed on page 14 are nearly met, you need to retain an attorney.



Tips on finding and selecting an attorney

- Look for an attorney that understands family law and adoption.
- Request a list of attorneys from the Department. The Department will provide the information to you, but they will not recommend a specific attorney.
- Contact the NFAPA office or adoptive parents you know, and ask for the name of their attorney or for the names of attorneys they know and trust.
- Secure an attorney a few months before needed, to avoid any delays in the process. The attorney must wait until the adoption packet arrives from the Department.

When you have secured an attorney, the worker will send the adoption packet directly to him/her. The adoption packet includes:

- Cover letter to the attorney.
- Adoption Summary including relevant information about the child and adoptive family written by the worker.
- One copy of the original birth certificate.
- One copy of the order terminating parental rights, if applicable.
- One original relinquishment from each parent, if applicable.
- One original *Nonconsent to Release Identifying Information* form, if applicable, and *Affidavit of Explanation of Nonconsent* form must be submitted with the relinquishment.

- One certified copy and one photocopy of parental death certificates, if applicable.
- One original plus one copy of the *No Claim to Paternity* form, if applicable.
- Forms documenting the notice to the absent father(s)
- Three signed *Relinquishment of Child For the Purpose of Adoption* forms signed by service area adoption staff.
- One original completed *Nebraska Adoption Medical History* form.
- Adoptive home study.

Your attorney will ask you to sign the adoption petition. Once the adoption petition is filed with the court, a finalization hearing will be scheduled within four to eight weeks. The adoptive parents **MUST** attend this court hearing. Nebraska law states that children under the age of 14 must attend the hearing, and for children age 14 and over, the court must receive the child's written consent to the adoption if the child is not in attendance. Generally the child's written consent is prepared by the attorney. **Because adoption day is an important event in the family's life, it is strongly recommended that the child attend the hearing, whether mandated by state law or not.**

Note

The Department cannot provide you with legal or tax advice. You should consult with an attorney of your choosing as to the legal issues relating to adoption.



Tips on preparing for adoption finalization

- Prepare yourself. Even though you may be excited about the adoption the child may be ambivalent, presenting challenging behaviors and questions. Think about this in advance and have a plan to seek assistance if/when the time comes.

- Consider classes, such as those from Spaulding, called *Making the Commitment to Adoption*, which may be helpful to you.

- Consider the fact that your own biological children, you, or your spouse may experience doubts and second thoughts. Prepare for this in advance and have a plan to seek assistance if/when the time comes.

- You should prepare or amend your will to reflect the child you are adopting. If you have named someone to care for the adopted child upon your death, you should make sure the person understands that any subsidy agreement will be terminated and has information on whom to call to notify the Department of the death.



Remember!

You must receive a copy of the final adoption decree. It is your attorney's responsibility to ensure three certified copies of the adoption decree and the child's new (adoptive) birth certificate are issued. Two certified copies of the adoption decree and one copy of the signed petition need to be sent to the child's worker at the Department who will provide a copy to the court. The third copy is for your records. Make sure your attorney requests these on adoption day. Some courts will not make them available past that date.

Make sure the information on the decree and new birth certificate is correct. These are official documents, and making corrections after they are issued is very difficult.

If the child you adopt has been determined to meet the criteria for special needs, you may request the Department pay your attorney fees as part of your subsidy agreement. For more information about payment of attorney fees and other financial issues, refer to the section on *What do I need to know about the subsidy?* on page 17.

You need to change the child's name with the Social Security Administration. You should spend some time thinking about whether or not you want to change the child's Social Security Number.

Other

Legal Guardianship

The State of Nebraska has a guardianship program, where legal guardianship is established through the court. This allows a long-term commitment between you and the child, and allows for future contact between the child and the birth family. Some situations where this type of permanent arrangement might be appropriate include:

- Instances where an older child has a strong emotional attachment to the birth parent and therefore resists or refuses adoption, and there is ongoing contact between the child and a birth parent
- The child is working toward independence and you are committed to remaining involved as long as necessary
- The child is related to you and you are willing to make a long-term commitment to provide care, but don't wish to adopt
- The child is over the age of 12 years and part of a sibling group in which some of the siblings are over 12 years.
- **Guardianship can be considered only when adoption, including open adoption, has been explored and ruled out.**

Subsidized Guardianship

Nebraska's subsidized guardianship program is designed to ensure financial barriers or costs associated with a child's special needs don't prevent the appointment of a guardian for a child. **Important: You cannot change a subsidized guardianship to a subsidized adoption.** State funds are available for this program only for state wards, and after the guardian has utilized all other available resources, including but not limited to:

- Private insurance
- Child support
- Care and treatment available through the community or education system
- Other benefits such as SSI, SSA, or VA for which the child may qualify

If you are a relative seeking legal guardianship, you may be eligible to receive ADC-relative payee benefits. See your adoption worker for more information about how to apply for these benefits.

Legal Guardianship Pros

- Provides a way to commit to a child throughout his or her childhood years
- Removes the child from the foster care system, allowing a more stable, long-term placement
- Birth parents may retain parental rights and/or visitation
- The child may prefer guardianship over adoption, due to emotional attachments to the birth family

Legal Guardianship Cons

- Guardians do not have the same rights of a parent. These include not being legal parents, not financially responsible for the child, and the child cannot inherit from guardians
- The court retains jurisdiction and can terminate legal guardianship
- Other interested persons (including birth parents) can petition the court to have guardianship terminated or changed
- Guardians must submit periodic written reports to the court

What if there is an allegation of abuse?

Prior to finalizing the adoption, allegations of abuse will be handled the same as in foster family care situations. Contact NFAPA for more information on these situations. If the adoption is final, the investigation will be handled as if the child is your biological child.

Are there special considerations in Native American adoptions?

If you want to adopt a Native American child, there are some differences in the process. In most adoptions, the adoption can proceed based on signed relinquishment by the birth parent which become final upon written acceptance by the agency. This is not true when the child is Native American. The birth parent can rescind consent until the adoption is finalized by the court.

There is also an order of preference that must be followed for adoption of a Native American child unless there is good cause to depart from those preferences. A notice of the adoption is provided to the child's tribe. Contact your worker if you're interested in more information about the Indian Child Welfare Act.

What are my rights and responsibilities?

You have the following rights:

- To read information in the child's file and take notes, in the Department office **after** you have signed the adoption placement agreement.
- To request and negotiate a subsidy with the Department, if the child is determined to have special needs.
- To receive certain post adoption services.
- To utilize NFAPA as a resource.
- To read your own home study in the Department office and add written comment, but you are not entitled to receive a copy.

You have the following responsibilities:

- To promptly notify the Department of a change in circumstance that might affect your subsidy agreement.
- To accept the child as a member of your family.

What if I have trouble after adopting?

Adoption creates the same legal relationship between you and the child(ren) you adopt as exists between a birth parent and child, with all the same rights and responsibilities. While this is true, you are not without support and resources if your child experiences problems after finalization. Hopefully, you have planned and negotiated a subsidy that will allow for financial assistance, if needed. For additional support or information, contact your local Department office or NFAPA to link you with a mentor or other adoptive families.

Summary

Adoption has a profound effect on many lives. It thrives on hope and commitment, yet often originates from pain and loss. At all times, however, adoption means family; and by definition family means connections.

NFAPA and the advisory committee that developed this publication know that the adoption experience can bring unforeseen challenges. Adoption can also bring joy and the satisfaction of meaningful contribution.

Glossary

Adoption with exchange of information – Adoptive situation in which a birth relative continues to *receive* information about or pictures of a child or both from the adoptive family after finalization; or the birth relative continues to *provide* information about or pictures of him/herself or both to the adoptive family after finalization. Usually identifying information is not shared with the birth relative. Information is shared through the agency responsible for the adoption.

CASA worker – CASA refers to Court Appointed Special Advocate. CASA workers are trained volunteers that serve as advocates for children involved in the juvenile court system.

Closed adoption – Adoptive situation in which there is no contact or exchange of information between birth relatives and adoptive parents after an adoption is finalized.

Concurrent planning – An important tool in effecting permanency for children. It is the process of developing and implementing a plan to reach a permanency objective while simultaneously developing and implementing a plan to reach an alternative permanency goal.

Displacement – Placement of an adopted child in an out-of-home setting after the adoption has been finalized. Parental rights of the adoptive parent(s) remain intact.

Disruption – Termination of the adoptive placement and the plan for adoption by a particular family prior to finalization of adoption.

Dissolution – Legal termination of the adoptive parent(s) parental rights or relinquishment by the adoptive parent(s) after the adoption has been finalized.

International adoption - Process of adopting a child who is from another country, which may be accomplished privately through an attorney, or through a private licensed adoption agency.

Guardian ad litem – The guardian ad litem is the person (usually an attorney) assigned to represent the best interests of the child in juvenile court proceedings.

Open adoption – Adoptive situation in which a birth relative continues to have contact with a child in the adoptive home, or adoptive families or families of siblings continue to have contact with each other, after finalization.

Private adoption – Adoption initiated by prospective adoptive parents and completed with help from an attorney or adoption counselor (sometimes also called “independent” adoption).

Private agency adoption - Adoption directed and supervised by a licensed private adoption agency, where the agency has legal custody of the child.

Public agency adoption - Adoption of a state ward directed and supervised by the Nebraska Department of Health and Human Services, or the similar public agency in other states.

Semi-open adoption – Adoptive situation in which a birth relative and adoptive parent meet before the adoption is final, usually once, to exchange information. Usually identifying information (names and addresses) is not shared.

Special needs – For the purposes of determining subsidy, there must be documentation of at least one of the following special needs: (a) age (if age is the only special need, children age seven or younger generally are not considered eligible); (b) membership in a sibling group of three or more to be placed together; (c) strong attachment to foster/adoptive parents by whom the child is to be adopted, so that breaking the attachment would be harmful to the child; (d) behavioral, emotional, physical, or mental handicap.

Termination of parental rights – The legal separation and extinguishment of the rights of the birth parents of a child including the transfer of custodial rights by reassignment of legal custody. This may be accomplished voluntarily (parent relinquishes child to the state, a

licensed child placement agency, or an individual) or involuntarily, through judicial determination (order of a county or juvenile court).

Title IV-E – Sometimes referred to as “IV-E”, refers to Title IV-E of the federal Social Security Act, which provides federal funding through the states for child welfare and adoption subsidy when certain eligibility requirements are met.

Voluntary relinquishment of parental rights - See the definition of termination of parental rights on page 38.

Resources

Nebraska Foster and Adoptive Parent Association

212 Haymarket Square

808 P Street

Lincoln, NE 68508

402/476-2273

877/257-0176

www.nfapa.org

Adoptive Families Magazine

888/372-3300

www.adoptivefamilies.com

AdoptUSKids

www.adoptUSKids.org

Answers4Families

www.answers4families.org

Casey Family Programs

206/282-7300

www.casey.org

Child Welfare League of America

202/638-2952

800/407-6273

www.cwla.org

National Adoption Information Clearinghouse (NAIC)

888/251-0075

www.calib.com/naic

National Resource Center for Special Needs Adoption (Spaulding)

248/443-7080

www.spaulding.org

Nebraska Adoption Agencies Association (NAAA)

(List of licensed private adoption agencies in Nebraska)

www.meadowlark.creighton.edu/naaa

**Nebraska Department of Health & Human Services
Adoption Exchange**

www.hhs.state.ne.us/adp/adpxchan.htm

North American Council on Adoptable Children

651/644-3036

www.nacac.org

Older Children Adoption Web Newsletter

www.olderchildrenadoption.com

Tapestry Books

800/765-2367

www.tapestrybooks.com

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212 Haymarket Square

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402-476-CARE (2273)

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