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ADOPTION OVERVIEW

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ADOPTION OVERVIEW

1.1 Introduction

“Adoption is the method provided by law to establish the legal relationship of parent and child between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents.”¹ The primary purpose of adoption is to help children, whose parents are incapable of assuming or continuing parental responsibilities, to legally become part of a permanent family.

Permanency is both a value and a goal of best practice to ensure that no child grows to adulthood without a lifelong connection to a caring adult. *If permanency cannot be achieved through reunification with parents or placement with relatives, the goal of adoption is considered, either with relatives or non-relatives in order to provide children with permanent family connections.*

Permanency for a child can best be defined as an enduring family relationship that:

- Is safe and meant to last a lifetime.
- Offers the legal rights and social status of full family membership.
- Provides for physical, emotional, social, cognitive, and spiritual well-being.
- Assures lifelong connections to extended family, siblings, and other significant adults and family history, traditions, race and ethnic heritage, culture, religion, and language.

The goals of adoption services include:

- Timely permanency for children, which is the ability to ensure that every child, no matter the child’s age, has an opportunity for placement in a family;
- Preparing children for the transition to an adoptive family;
- Providing support and services to strengthen the adoptive family; and,

¹ Child Welfare League of America, Standards for Adoption Services, Revised Edition, page 11.

- Providing post-adoption services to optimize the adoptive family functioning.

1.2 Framework

1.2.1 Practice principles

Excerpts from the Virginia Children's Services Practice Model provide guiding principles relevant to the goal of adoption:

- We believe that all children and youth need and deserve a permanent family.
- Lifelong family connections are crucial for children and adults. It is our responsibility to promote and preserve kinship, sibling, and community connections for each child. We value past, present, and future relationships that consider the child's hopes and wishes.
- Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care, or guardianship. Placement stability is not permanency.
- Planning for children is focused on the goal of preserving their family, reunifying their family, or achieving permanency with another family.
- Permanency planning for children begins at the first contact with the children's services system. We proceed with a sense of urgency until permanency is achieved. We support families after permanency to ensure that family connections are stable.

1.2.2 Legal citations

The legal framework and specific requirements for engaging children and families through adoption are found through federal and state law. Key laws are identified in this section.

1.2.2.1 Federal laws

- [Adam Walsh Child Protection and Safety Act of 2006](#) (Pub. L. No. 109-248). This federal law requires fingerprint-based background checks for all prospective adoptive parent(s) and, in all cases, prohibits states from claiming title IV-E adoption assistance if the prospective adoptive parent(s) has certain felony convictions. This law requires child abuse and neglect registry checks for perspective foster or adoptive parents and any other adult who resided in the home for the last five (5) years.
- [Adoption Assistance and Child Welfare Act of 1980](#) (Pub. L. No. 96-272). This federal law:

- Requires states to make adoption assistance payments, *taking* into account the circumstances of the adopting parents and the child, to parents who adopt a child who is AFDC eligible and is a child with special needs.
- Defines a child with special needs as a child who:
 - Cannot be returned to the parent's home;
 - Has a special condition such that the child cannot be placed without providing assistance; and,
 - Has not been able to be placed without assistance.
- Requires the court or administrative body to determine the child's future status, whether it is a return to parents, adoption, or continued foster care, within 18 months after initial placement into foster care.
- [Adoption and Safe Families Act of 1997](#) (Pub. L. No. 105-89). This federal law promotes the adoption of children in foster care. It was passed to improve the safety of children and to promote adoption and other permanent homes for children who need them and to continue to support families. This law also requires that agencies, when filing a petition for TPR, shall concurrently begin to recruit, identify, process, and approve a qualified adoptive family on behalf of the child, regardless of age. The law provides that title IV-E adoption assistance children retain their eligibility for such assistance in a subsequent adoption if the adoptive parents die or the adoption dissolves with a termination of parental rights and the child continues to be a child with special needs. This law also requires states to conduct criminal records checks on prospective adoptive parents of children who would receive title IV-E adoption assistance.
- [Child Citizenship Act of 2000](#) (Pub. L. No. 106-395). This federal law amends the Immigration and Nationality Act to permit foreign-born citizens (including adopted children) to acquire citizenship automatically if they meet certain requirements.
- [Deficit Reduction Act of 2005](#) (Pub. L. No. 109-171). This federal law clarifies that for title IV-E adoption assistance, a child shall meet the July 16, 1996 State AFDC eligibility criteria in the specified relative's home from which he or she is removed. This legislation also eliminates the requirements that a child had to be AFDC eligible at the time of the initiation of adoption.

- [Fostering Connections to Success and Increasing Adoptions Act of 2008](#) (Pub. L. No. 110-351). The goal of this law is to amend parts B and E of title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes.
- [Indian Child Welfare Act \(ICWA\) of 1978](#) (Pub. L. No.95-608). This federal law sets standards *to maintain placement of American Indian children with American Indian/Alaska Native families*.
- [Multiethnic Placement Act \(MEPA\) of 1994](#) and [The Interethnic Provisions of 1996](#) (Pub. L. No. 103-382 and Pub. L No. 104-188). The Multiethnic Placement Act was passed to promote the best interests of children by decreasing the length of time that children wait to be adopted, preventing the discrimination in the placement of children on the basis of race, color, or national origin and facilitated the identification and recruitment of foster and adoptive families who can meet children's needs. Under MEPA, the state shall provide for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed. The state's plan for foster care and adoption assistance under title IV-E shall comply with MEPA. This plan shall provide that neither the state nor any other entity in the state that receives funds from the federal government is involved in adoption or foster placements that may discriminate on the basis of race, color, or national origin of the adoptive or foster parent or the child. The 1996 legislation amended the civil rights laws to prohibit persons and governments involved in adoption and foster care placements from denying to any individual the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the individual or of the child or delaying or denying the placement of a child for adoption on the basis of the race, color, or nationality origin of the adoptive or foster parent or the child.
- [The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 \(PRWORA\)](#) (Pub. L. No. 104-193). This law limits Federal public benefits to qualified aliens. PRWORA requires a qualified alien entering the United States on or after the date of enactment of PRWORA (August 22, 1996), unless excepted, to live in the United States for five years before becoming eligible for certain Federal public benefits. In accordance with section 403(c)(2)(F) of PRWORA, however, Federal payments for adoption assistance are excluded from this five-year residency requirement if the child and the foster or adoptive parent(s) with whom he or she is placed are qualified aliens.

- [Safe and Timely Interstate Placement of Foster Children Act of 2006](#) (Pub. L. No. 109-239). This federal law:
 - Requires each title IV-E state plan for foster care and adoption assistance to provide that the state shall have in effect procedures for orderly and timely interstate placement of children, complete home studies requested by another state within a specified period, which is 60 days in most cases but up to 75 days if specified circumstances warrant an extension, and accept such studies received from another state **within 14 days** unless reliance on the report would be contrary to the child's welfare.
 - Requires courts to ensure that foster parents, pre-adoptive parents, and relative caregivers of a child in foster care are notified of certain proceedings held with respect to the child.
 - Requires child welfare services to include the assurance that the state will eliminate legal barriers to facilitate timely adoptive or permanent placements for children.
- [Small Business Job Protection Act of 1996, Section 1807](#) (Pub. L. No. 104-188). This federal law provides a non-refundable tax credit for people who adopt children and a non-refundable credit to those who adopt children with special needs.

1.2.2.2 Code of Virginia

The Code of Virginia encourages timely disposition of adoption proceedings and guides practice to enhance permanency for children and youth.

- Chapter 12 of the Code of Virginia §§ [63.2-1200](#) through [63.2-1220.1](#) provides guidance on the general provisions of adoption in the Commonwealth.
- Additional articles of the Code of Virginia provide guidance on adoption practice, proceedings and requirements:
 - Post Adoption Contact and Communication Agreements (PACCA)
 - §§ [63.2-1220.2](#) through [63.2-1220.4](#)
 - Agency Adoptions including entrustments and foster parent adoptions
 - §§ [63.2-1221](#) through [63.2-1229](#)
 - Parental Placement Adoptions

- [§§ 63.2-1230](#) through [63.2-1240](#)
- Stepparent Adoption
 - [§§ 63.2-1241](#) through [63.2-1242](#)
- Close Relative Adoption
 - [§§ 63.2-1242.1](#) through [63.2-1242.3](#)
- Adult Adoption
 - [§§ 63.2-1243](#) through [63.2-1244](#)
- Records including permanent retention, disposition of reports, disclosure of birth family information, and fees for court ordered services
 - [§§ 63.2-1245](#) through [63.2-1248](#)
- *Virginia Birth* Father Registry
 - [§§ 63.2-1249](#) through [63.2-1253](#)

Additional laws included in the Code of Virginia provide guidance on:

- The Uniform Act on Adoption and Medical Assistance [§§ 63.2-1404](#) through [63.2-1405](#) provides definitions, information on medical assistance, and penalties for making false claims.
- The Interstate Compact on the Placement of Children ([§ 63.2-1000](#)) provides for cooperation between states with regard to placing children in a suitable environment. Sections [§§ 63.2-1100](#) through [63.2-1105](#) define the implementation of the Interstate Compact on the Placement of Children.
- [§ 16.1-283](#) describes the process in the termination of residual parental rights.

1.3 Definitions

The following words and terms, when used in this guidance, shall have the following meaning, unless the context clearly indicates otherwise:

<u>Term</u>	<u>Definition</u>
Acknowledged	A man with a relationship with a child established by a voluntary

Father	written statement between the man and the mother of the child made under oath agreeing to the paternity and confirming that prior to signing the acknowledgement, the parties were provided with a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences arising from the signed acknowledgement, including the right to rescind (§ 20-49.1).
Addendum	<i>An attachment to the original adoption assistance agreement which specifies additions or deletions to the original terms, services, or conditions of the agreement and supersedes the original agreement.</i>
Additional Daily Supervision (ADS)	A child's need for increased supervision and support. ADS is the basis for determining if an enhanced maintenance payment to a foster parent or an adoptive parents entering into an adoption assistance agreement is needed.
Adjudicated Father	A man with a judgment or order from a court establishing paternity of a child using scientifically reliable genetic tests, including blood tests, which affirm at least a 98 percent probability of paternity. Such genetic test results shall have the same legal effect as a judgment entered pursuant to § 20-49.8 .
Adoptee	Any person who has been adopted.
Adoptee Application for Disclosure	The application form to be completed by an adoptee, requesting a search is made to locate the adoptee's birth mother, birth father, and/or adult birth siblings.
Adoption	The legal process that entitles the person being adopted to all of the rights and privileges, and subjects the person to all the obligations of a birth child.
Adoption Assistance	A money payment or payment for services provided to adoptive parents and other persons on behalf of a child who has special needs and who meets eligibility criteria.

Adoption Assistance Agreement	A written agreement and any addenda that are entered into and binding on all relevant parties, including the local department of social services (LDSS), the adoptive parents of the child with special needs, and the licensed child placing agency when the child is in its custody. At a minimum, the agreement and any addenda specify the payments, services, and assistance to be provided on behalf of the child and stipulate that the agreement and any addenda shall remain in effect regardless of the State of residence of the adoptive parent at any given time (Social Security Act, Title IV, § 475 (c) (2) [42 USC 675] and § 63.2-1302).
Adoption Assistance Case File	<i>The physical file that contains documentation related to a child's adoption assistance which supports the data stored within the electronic case record.</i>
Adoption Assistance Screening Tool	The form used to determine the child's eligibility for adoption assistance in Virginia.
Adoption Committee	A group of a minimum of three people (a manager in children's services, the child's service worker, and the adoption worker) that meets to select a family whose strengths meet the needs of the child and to determine the child's compatibility with the adoptive family.
Adoption Disruption	The unplanned termination of an adoptive placement prior to the finalization of the legal adoptive process.
Adoption Dissolution	The interruption of an adoptive placement after the legal process has been completed and the adoption is finalized.
Adoption Resource Exchange of Virginia (AREVA)	<i>A registry and photo listing of children and families waiting for adoption within the Commonwealth of Virginia. It is one of the tools provided by the Virginia Department of Social Services (VDSS) to connect children and youth available for adoption with families.</i>

Adoption Search	<i>A child placing agency (CPA) conducts interviews and makes written or telephone inquiries to locate and advise the adoptee, biological parents, or siblings of an applicant's request made by an Application for Disclosure for identifying information.</i>
Adoption Tax Credits	The amounts deducted from state and federal tax liability for qualifying expenses paid to adopt an eligible child (including a child with special needs).
Adoptive Home	Any family home selected and approved by a parent, local department of social services, or a licensed child-placing agency for the placement of a child with the intent of adoption.
Adoptive Parent	A provider selected and approved by a parent or a child placing agency for the placement of a child with the intent of adoption.
Adoptive Placement	Means arranging for the care of a child who is in the custody of a child placing agency in an approved home for the purpose of adoption with a signed adoptive placement agreement.
Adult	Any person 18 years of age or over.
Adult Adoption	The adoption of any person 18 years of age or older.
Agency Placement Adoption	An adoption in which a child is placed in an adoptive home by a child placing agency which has custody of the child.
Amended Birth Certificate	A term used to refer to the new birth certificate that is issued for an adopted child after an adoption becomes final, which shows the new name of the adopted child and the adoptive parents as the parents of the child, as though they are the biological parents.
Application for Adoption Assistance	The application form used to request adoption assistance payments or services on behalf of an eligible child with special needs.
Basic Maintenance Payment	A component of the adoption assistance payment made to an adoptive parent that may be consistent with the basic foster care maintenance rate.
Birth Certificate (original)	Legal document issued at the time of birth documenting the <i>child's birth facts such as name at birth, date of birth, place of birth, and name of one or both biological parents.</i>

Birth Parent	The child's biological parent, and for the purpose of adoptive placement, means parent(s) of a previous adoption.
Child	Any natural person less than 18 years of age.
Child-placing Agency	Any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903 or 63.2-1221 . A child-placing agency may be a local department of social services or a private licensed child placing agency.
Child's Pre-Adoptive Summary	A written assessment of the physical, mental, and emotional condition of the child, including the child's strengths, needs, and non-identifying history.
Child Protective Services	<i>The identification, receipt, and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age provided by the LDSS under the supervision of VDSS. It also includes an assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.</i>
Children's Services Act (CSA)	<i>The legislation that created a collaborative system of services and funding that is child-centered, family-focused, and community-based to address the strengths and needs of troubled and at-risk youth and their families in the Commonwealth (§ 2.2-5200).</i>
Closed Adoption	An adoption in which the identity of the adoptive parents and birth parents are kept confidential during the process of adoption and records are sealed upon finalization of the adoption, as prescribed by law.
Close Relative Placement	For the purposes of adoption, a close relative placement is a child or youth's grandparent, great grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt (refer to § 63.2-1242.1 (A) of the Code of Virginia).
COBRA Reciprocity	A state's decision to extend Medicaid coverage to adopted children from another state living in the state who meet eligibility requirements and receive non-title IV-E adoption assistance benefits.
Commissioner	The Commissioner of the Department, his designee, or authorized

representative.

Community Policy and Management Team (CPMT)

A team that is appointed by the participating local political subdivision to implement the CSA as specified in the Code of Virginia §§ [2.2-5200](#) – [2.2-5207](#). The purpose of the CPMT is to manage the cooperative effort in each community to better serve the needs of troubled and at-risk youths and their families, and to maximize the use of state and community resources.

Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)

Addresses the provision of Medicaid to adoption assistance eligible children.

Consortium for Resource, Adoptive, and Foster Family Training (CRAFFT)

CRAFFT is a joint initiative between VDSS, Norfolk State University, Radford University, and Virginia Commonwealth University. CRAFFT Consultants are available to LDSS to provide assistance regarding training for foster and adoptive families.

Cultural Competency

The understanding of culture as a system of values, beliefs, attitudes, traditions, and standards of behavior governing the organization of people into social groups, regulating both group and individual behaviors.

Custody

A designation of legal and/or physical care and responsibility of a child.

Custody Investigation

A process, requested by a court, used by a LDSS to gather information related to the parents and a child whose custody, visitation, or support is in controversy or requires determination.

Department

The State Department of Social Services.

Enhanced Maintenance Payment

The *negotiated* amount paid to an adoptive parent over and above the basic maintenance payment. It is based on the needs of the child for additional daily supervision and support by the adoptive parent *that is beyond age appropriate care*. The maximum rate for each child is determined by the administration of a VEMAT.

Executed Agreement

For the purposes of adoption assistance, an executed agreement is one that has been signed and dated by both the adoptive parent and the local board or local board designee ([§ 63.2 - 1302](#)).

Family Assessment and Planning Team (FAPT)	<i>A local team created through the CSA to assess the strengths and needs of troubled youth and families, which identifies and determines the complement of services required to meet these unique needs (§ 2.2-5208).</i>
Foster-Adopt Placement	A child placement in which birth parents' rights have not yet been severed by the court or in which birth parents are appealing the court's decision but foster parents agree to adopt the child if/when parental rights are terminated.
Free and Appropriate Public Education (FAPE)	<i>The services or accommodations outlined in the Individualized Education Plan (IEP) that adapt the content, delivery or methodology that meet the unique needs of the child to access the general education curriculum.</i>
Group Home	For the purpose of adoption assistance, a group home is a Level A or B facility that is either providing community-based, residential services licensed by the Department of Social Services (DSS), Department of Juvenile Justice (DJJ), or Department of Education (DOE); or therapeutic behavioral residential services licensed by the Department of Behavioral Health and Developmental Services.
Guardian Ad Litem (GAL)	A trained, independent advocate who represents and promotes the best interests of abused, neglected, and dependent children.
Intercountry Placement	The arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth, by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.
Interlocutory Order of Adoption	An order declaring that subject to the probationary period prior to the final order of adoption, the child will be, for all intents and purposes, the child of the petitioner.
Interstate Compact on Adoption and Medical Assistance (ICAMA)	An agreement between member states that governs the interstate delivery of and payment for medical services and adoption assistance payments for adopted children with special needs.
Investigation	A process of gathering and assessing information relative to the best interest of the child.

Joint Custody	Joint legal custody where both parents retain joint responsibility for the care and control of the child and joint authority to make decisions concerning the child even though the child's primary residency may be with one parent. Joint physical custody where both parents share physical and custodial care of the child or a combination of joint legal and joint physical custody which the court deems to be in the best interest of the child.
Local Department	The local department of social services of any county or city in this Commonwealth.
Online Automated Services Information System (OASIS)	<i>Automated system used to record all child welfare services data for foster care, adoption, and adoption assistance cases.</i>
Parental Placement	The placement of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.
Permanency	Means establishing family connections and placement options for children in order to provide a lifetime of commitment, continuity of care, a sense of belonging, and a legal and social status that go beyond a child's temporary foster care placements.
Person Locator Tool	<i>A web-based search program that allows people searches, address searches, and phone number searches in real-time.</i>
Person with a legitimate interest	May be broadly construed and includes but is not limited to grandparents, stepparents, former stepparents, blood relatives and family members provided that the party has intervened in the suit or is properly before the court to accommodate the best interest of the child.
Petitioner	A person who requests of the court through a petition permission to adopt a certain child.
Post Adoption Contact and Communication Agreement (PACCA)	The voluntary, legally enforceable, written agreement between the birth parent(s) and the adoptive parent(s) for contact and communication after the legal adoption of a child that has specific requirements included in the agreement.
Post-Adoption Services	Services provided to the family after the legal finalization of the adoption to support, maintain, and sustain the adoptive placement.

Post-Placement Services	A multitude of appropriate services that are provided after the child's placement with his or her adoptive family but before the finalization of adoption. The goal of these services is to facilitate the integration of the child and family, and the resolution of problems that they may encounter.
Presumed Father	A man presumed to be the father if the following circumstances apply: he and the mother of the child are married to each other and the child is born during the marriage; he and the mother of the child were married to each other and the child is born within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce (§ 63.2-1202).
Putative Father Registry	A registry established by the Department of Social Services for a man who desires to be notified of proceedings for adoption or termination of parental rights regarding a child he may have fathered.
Qualified Professional	A person who is licensed, certified, and/or has documentable education to provide care or services specific to the child's current treatment, diagnosis, or disabilities.
Re-Adoption	(1) A process in which a <i>child adopted in a foreign country is adopted for a second time in a court of his/her state of residence within the United States. Refer to § 63.2-1200.1 for the Commonwealth of Virginia's specific requirements for re-adoption.</i> (2) <i>The process of adopting a formerly adopted child after the previous adoption dissolved or due to the death of the adopted parents.</i>
Residential Treatment Facility	For the purposes of adoption assistance, a residential treatment facility (Level C) contains a program that is (1) for children and adolescents licensed by the Department of Behavioral Health Developmental Services (DBHDS) that is located in a psychiatric hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or (2) for children and adolescents licensed by DBHDS that is located in a psychiatric unit of an acute general hospital accredited by the JCAHO; or (3) psychiatric facility that is (i) accredited by JCAHO, the Commission on Accreditation of Rehabilitation Facilities, the Council on Quality and Leadership in Support for People with Disabilities, or the Council on Accreditation Services for Families and Children and (ii) licensed by DBHDS as a residential treatment program for children

and adolescents.

- Sibling** *Two or more children having one or more parents in common.*
- Sole Custody** One person retains responsibility for the care and control of the child and has primary authority to make decisions concerning the child.
- Special Services Payments** A component of the adoption assistance payment made to the adoptive parents or other persons for special services on behalf of the child.

1.4 Common websites

The following websites provide insight and valuable resources for adoption topics:

- [Adoptive Families of America Magazine](#)
- [Administration for Children and Families](#)
- [AdoptUSKids](#)
- [Adopting.org](#)
- [American Adoption Congress](#)
- [Casey Family Programs](#)
- [Child Welfare Information Gateway](#)
- [Dave Thomas Foundation](#)
- [Evan B. Donaldson Institute](#)
- [National Center on Adoption and Permanency](#)
- [National Resource Center for Adoption \(NRCA\)](#)
- [North American Council on Adoptable Children](#)
- [PACT, An Adoption Alliance](#)
- [Virginia's Waiting Children](#)