



## Frequently Asked Questions From Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Prospective Foster and Adoptive Parents

The landscape of parenting options for LGBTQ individuals and couples has grown considerably in recent years, with an increasing number of LGBTQ parents choosing to build their families through fostering or adoption. Many agencies, both public and private, are welcoming the LGBTQ community as an excellent resource for infants, children, and youth in need of a permanent family. Still, LGBTQ foster and adoptive parents continue to face specific challenges related to adoption. These challenges may be based on where you live, what type of adoption you are interested in, biases within an agency, or whether you adopt as a single person or a couple.<sup>1</sup> Becoming a parent is undoubtedly a daunting process, often requiring a significant commitment of time, emotional energy, and financial resources, depending on the path you take. This factsheet is designed to answer some of the initial questions LGBTQ prospective foster or adoptive parents may have in hopes of helping to better inform you during this first stage of your journey.

<sup>1</sup> See Child Welfare Information Gateway's *Adoption Options: Where Do I Start?* at <https://www.childwelfare.gov/pubs/f-adoption/>.

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## Q: How Do I Find a Welcoming Agency?

A: Finding an agency whose practices are genuinely affirming and whose policies fit with your family's needs will be an important component of ensuring you have a positive experience. You may want to start by asking other LGBTQ parents or caregivers in your community about their experiences. Ask them if they have agency recommendations or other advice to share. You can also search for LGBTQ parenting groups or contact your local LGBTQ community center.<sup>2</sup>

The Human Rights Campaign Foundation's All Children—All Families project maintains a list of adoption agencies that are committed to welcoming the LGBTQ community at <http://www.hrc.org/acaf>. Child Welfare Information Gateway's National Foster Care and Adoption Directory (<https://www.childwelfare.gov/nfcad/>) allows you to search support groups for prospective and adoptive parents. While this list is not solely for LGBTQ families, it may help you become familiar with resources that are available in your area.

You can also conduct your own research on the Internet by reviewing agency websites for images and language that speak to the LGBTQ community, such as, for example, photos of two-mom or two-dad families or client nondiscrimination statements. You may want to call an agency directly to ask about its policies or request an in-person meeting to learn more about the agency's track record with LGBTQ families. If you live in a jurisdiction that has laws restricting LGBTQ foster and adoptive parents, ask the agency how it navigates those challenges. Be sure that the agency can verify that it has placed children with LGBTQ families and ask to speak to some of its clients.

Other potential topics to explore with agencies include the following:

- The number of LGBTQ families the agency has worked with, what percentage of total families that represents, and how long LGBTQ families wait to be matched with a child or children

<sup>2</sup> For a list of national LGBTQ advocacy and support organizations, refer to Information Gateway at [https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS\\_ID=146](https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS_ID=146).

- How the agency represents LGBTQ families to expectant parents considering adoption for their infants
- How the agency's intercountry program, if it has one, works with LGBTQ families and addresses barriers related to regulations and laws in other countries

## Q: What States Allow LGBTQ Individuals or Same-Sex Couples to Foster or Adopt?

A: While the Supreme Court's historic June 2015 ruling in *Obergefell v. Hodges*<sup>3</sup> brought marriage equality to all 50 States, it did not specifically address fostering or adoption. Laws pertaining to adoption and foster care are State specific, and many States require that a husband and wife petition jointly.<sup>4</sup> Currently, it is unclear whether this language can apply to same-sex couples who are legally married. Additionally, most State laws are largely silent on the issue of adoption by single LGBTQ persons. In approximately 19 States, the District of Columbia, and the U.S. Virgin Islands, the use of gender-neutral language, including "spouses" or "married couples," serves to allow adoption by same-sex couples.<sup>5</sup> As of August 2016, only Mississippi specifically prohibits adoption by couples of the same gender. However, in March 2016, a U.S. District Court judge declared this ban unconstitutional, citing the Supreme Court's 2015 marriage equality ruling. That said, the State's law still includes the 2015 language prohibiting adoption by same-sex couples.

<sup>3</sup> The complete Court ruling can be read here [http://www.supremecourt.gov/opinions/14pdf/14-556\\_3204.pdf](http://www.supremecourt.gov/opinions/14pdf/14-556_3204.pdf). For a live blog of the ruling, visit the Human Rights Campaign at <http://www.hrc.org/blog/live-blog-lovewins>.

<sup>4</sup> Connecticut § 45a-726a, which allowed the commissioner of human services to consider the sexual orientation of the prospective adoptive parent, notwithstanding provisions in the State's laws prohibiting discrimination based on sexual orientation, was repealed July 1, 2013. Florida § 63.042(3), which prohibited adoption by a gay or lesbian person, was deleted from the statute June 11, 2015.

<sup>5</sup> California (by spouse or domestic partner), Colorado, Connecticut, Georgia, Idaho, Illinois (spouses and civil union partners), Louisiana, Maryland, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York (spouses and unmarried intimate partners), North Carolina, South Dakota, Tennessee, Utah, and Vermont. In Utah, the State social services division is required to place a child in its custody with a man and woman married to each other unless that placement is contrary to the child's best interests.

Regardless of whether you are married or in a civil union or domestic partnership, it is widely recommended that nonbiological and nonadoptive parents obtain an adoption (second-parent or stepparent adoption included), even if the second parent is named on your child's birth certificate, in order to provide the child with necessary legal protection. This will typically also grant adoptive parents the same rights as biological parents in custody and visitation matters.

Before you begin your adoption process, you should research the laws in your State or jurisdiction. To help get you started, Child Welfare Information Gateway allows you to search statutes by State at <https://www.childwelfare.gov/topics/systemwide/laws-policies/state/>. You can also review the publication *Who May Adopt, Be Adopted, or Place a Child for Adoption? Summary of State Laws* at <https://www.childwelfare.gov/pubPDFs/parties.pdf>.

For information about relationship recognition in your State, see the National Center for Lesbian Rights (NCLR) publication *Marriage, Domestic Partnerships, and Civil Unions: An Overview of Relationship Recognition for Same-Sex Couples Within the United States* at <http://www.nclrights.org/>. You may also consult your State equality organization, <http://www.equalityfederation.org/members>, or a national LGBTQ advocacy center, such as the Human Rights Campaign (<http://www.hrc.org/>) or the NCLR (<http://www.nclrights.org/>).

## **Q: Should I Disclose My Sexual Orientation or Transgender Status? If So, When?**

A: This may likely be one of the most significant questions, particularly if you live in a State with laws that don't protect LGBTQ persons from discrimination or if you are not sure of your chosen agency's policy. Of course, honesty is the best course of action, whether it's regarding LGBTQ identity, family history, or any other aspect of your personal life and background. LGBTQ prospective parents and other caregivers often worry that being open about their LGBTQ identity will be viewed negatively by an agency, may disqualify them as parents,

or lead to greater scrutiny as applicants. For single LGBTQ adults, it may seem irrelevant or unnecessary to disclose this information; however, in order to make the best placement decision possible, a birth parent or child welfare professional needs a full and honest picture of who will be raising the child or children. Being up front about your LGBTQ identity early in the process is encouraged. Agencies with experience working with LGBTQ parents should view your LGBTQ identity as just one part of that full and honest picture.

It's important to note that some agencies may consider your withholding information or not being truthful as a red flag. Without an honest relationship between you and your agency, you could also miss out on important or relevant information and opportunities to better prepare you and your family. Effective support systems offer the most promising foundation for a successful adoption for everyone.

For unmarried same-sex couples in States where adoption by two unmarried partners (joint adoption) is not allowed, you may need to identify one person to be the primary applicant and one to be the "other member of household." Ideally, the agency, and the home study social worker in particular, will be aware of your LGBTQ identity and/or relationship status so they can help you navigate any potential challenges in the city, county, or State where you reside.

If there is a compelling reason why you are not able to disclose—for example, you live in a State that restricts fostering or adoption by LGBTQ couples<sup>6</sup>—consult with an LGBTQ family law attorney or LGBTQ advocacy organization before moving forward. You can find legal help on the National Center for Lesbian Rights Legal Help Line at 800.528.6257 or do your own search on the Internet for local resources. There may be ways to resolve difficult scenarios, and it is best to have as many supportive connections and as much information as possible.

<sup>6</sup> The Human Rights Campaign maintains maps detailing the current status of laws and policies affecting the LGBTQ community in each State at [http://www.hrc.org/state\\_maps](http://www.hrc.org/state_maps).

## Q: What About Intercountry Adoption?

A: At this point, it can be difficult for any individual or couple to pursue an intercountry adoption, regardless of their sexual orientation or gender expression. The process is becoming increasingly complicated and restrictive, and, more often, the children who are available for adoption are older and often have additional physical or emotional challenges. There will likely be additional challenges for same-sex couples as many countries that remain open for intercountry adoptions have laws, policies, or cultural norms that create barriers to adoption for LGBTQ couples. Agencies may be cautious about representing LGBTQ couples for intercountry adoption based on the realities of these regulations, though this may not necessarily reflect an agency's overall view of adoption by LGBTQ adults. For more information about a specific country, you can visit the U.S. State Department's database of written laws and policies for each country from which U.S. citizens are able to adopt at [www.adoption.state.gov/countryinformation.html](http://www.adoption.state.gov/countryinformation.html).

## Q: What Should I Expect From the Home Study or Family Assessment?

A: Many families will find the home study (or family assessment) somewhat daunting or even intrusive. The goal of this process is to learn about you as an individual and as a couple, if applicable. It will assess the strengths and capacities you would bring to parenting a child or children and help prepare you for the transition to parenthood. It is also the process through which the social worker determines that the home is a safe and secure place for a child, while taking the child's age, individual needs, and preferences into consideration. It will be helpful to keep that in mind when preparing for your home study. The home study may create added anxiety for LGBTQ individuals and couples, particularly when there are concerns about a chosen agency's policies or procedures. Again, by researching welcoming agencies beforehand and ensuring open communication upfront, you increase the likelihood that the home study social worker will be prepared to conduct an open and mutually beneficial home study.

If you feel at any point that your home study social worker is asking inappropriate questions, is uncomfortable with you, or is being biased in the assessment, you should express your concerns with that person first and then their supervisor. For more information on the home study process, see Child Welfare Information Gateway's *The Adoption Home Study Process* at [https://www.childwelfare.gov/pubPDFs/f\\_homstu.pdf](https://www.childwelfare.gov/pubPDFs/f_homstu.pdf).

## Q: What Do I Do if I Think an Agency Is Discriminating or Being Unfair?

A: As noted above, if you feel at any time that a particular agency staff person is being unfair, disrespectful, or discriminatory, you should share your concerns first with that person. There may be a simple misunderstanding that can be corrected immediately. If you do not get a reasonable response, you may then choose to report your concerns to that person's supervisor. Keep in mind that while the potential for being treated unfairly exists, sometimes agencies have competing demands. For example, the agency's social workers may not return anybody's calls quickly because of staff's high workload. Different-sex couples may very well be waiting just as long as same-sex couples.

Support groups are one way to interact with other couples who are going through the process of waiting and who can share your experiences and offer support. It is important to speak up when you feel something is unfair, to report up the chain of command, and to be open to the possibility that you may be misjudging the situation. If you still experience complications after speaking with a supervisor, you may elevate your grievance to the attention of the county or district agency director or State ombudsman.<sup>7</sup> In cases of explicit discrimination after speaking with a supervisor or county director, contact an LGBTQ advocacy organization.

Information Gateway also offers the factsheet for families *From Complaint to Resolution: Understanding the Child Welfare Grievance Process*, which is available at <https://www.childwelfare.gov/pubs/factsheets/cw-grievance/>.

<sup>7</sup> Information Gateway maintains a list of contact information for local and county child welfare agencies at [https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS\\_ID=56](https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS_ID=56). It also offers a list of child welfare State complaint offices at [https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS\\_ID=31](https://www.childwelfare.gov/organizations/?CWIGFunctionsaction=rols:main.dspROL&rolType=Custom&RS_ID=31).

## Q: How Do I Find Support During the Waiting Process?

A: Many agencies, both public and private, have support groups available for families waiting to adopt. Be sure to ask your social worker for a referral to those groups, ask if other LGBTQ families are in the group, and find out if the facilitator is LGBTQ-competent and friendly. There are also LGBTQ parent support groups across the country where you can connect with other foster and adoptive families. It is helpful to think of the waiting period as an opportunity to start networking with other LGBTQ families who can become a support network for you as you transition to parenthood. If you are not able to find a group in your local community or through your local agency, you can explore online discussion forums for waiting families and for LGBTQ families in general. You might even want to consider starting a group if one does not currently exist.

AdoptUSKids, at <http://www.adoptuskids.org/>, provides free assistance to LGBTQ families who are seeking to foster or adopt children from foster care. To talk with an LGBTQ adoption specialist, you can also call AdoptUSKids toll free at 888.200.4005 or email [LGBTSupport@adoptuskids.org](mailto:LGBTSupport@adoptuskids.org).

## Q: What Do Experienced LGBTQ Parents Have to Offer as Advice?

A: Most LGBTQ parents say that they benefit from being part of a larger community of LGBTQ parents where their children can see other families like theirs, especially as they get older. LGBTQ adoptive parents often have networks that overlap, some of which are linked to the adoption community and some to the LGBTQ community. Experienced parents also recommend that you research the LGBTQ policies of your local child care facilities or schools and identify pediatricians and other service providers who are both affirming and a good fit for your family's needs. Finally, other LGBTQ parents recommend that you think about how you will talk to your family,

friends, neighbors, teachers, and others about your family and how you will answer challenging questions that may arise.

## Conclusion

Adoption professionals can find more information and resources about working with LGBTQ families in Child Welfare Information Gateway's *Working With Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) Families in Adoption* at <https://www.childwelfare.gov/pubs/f-profbulletin/>. All qualified individuals and couples who are willing and able to provide a loving, permanent home to a child should be encouraged to do so and receive support in the process.

## Suggested Citation:

Child Welfare Information Gateway. (2016). *Frequently asked questions from lesbian, gay, bisexual, transgender, and questioning (LGBTQ) prospective foster and adoptive parents*. Washington, DC: U.S. Department of Health and Human Services, Children's Bureau.



U.S. Department of Health and Human Services  
Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau

