



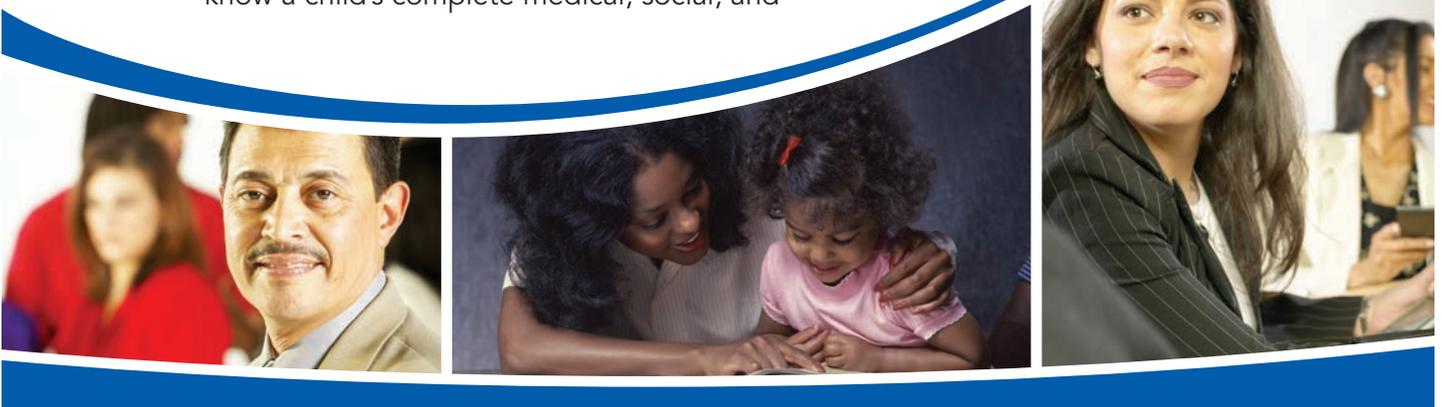
## Providing Background Information to Adoptive Parents

Providing background information to adoptive families about their prospective child or youth is not only a child welfare professional's legal responsibility, it also plays an important role in successful adoption. Complete disclosure about a child's history benefits the child, the adoptive family, and the adoption agency or organization in the following ways:

- **It helps the prospective adoptive family make an informed decision.** Families who know a child's complete medical, social, and

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placement histories are better able to make informed decisions about whether they are emotionally and financially prepared to meet the child's needs. Accurate background information, including any medical or mental health diagnoses, may also enable families to access Federal or State adoption subsidies available for children with special needs.

- **It ensures the adopted child or youth will have full and accurate knowledge of his or her family, medical, and genetic history.** When planning a family or dealing with medical or psychiatric emergencies, knowledge of one's background is crucial. This knowledge is also important for adopted adolescents' identity formation.
- **It helps protect agencies and intermediaries from "wrongful adoption" lawsuits.** Agencies have been held liable by the courts in "wrongful adoption" lawsuits for intentionally misrepresenting, deliberately concealing, or negligently disclosing a child's background information to adoptive parents.

This factsheet is written for child welfare professionals who work with families interested in adoption and/or who are about to receive a referral or foster or adoptive placement.

## What Information Needs to Be Provided

Today, all 50 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and Puerto Rico have statutes specifying information that must be collected

and shared with adopting parents. However, stipulations regarding who may collect background information, what information must be collected, and the timeframe for collecting and providing information to adoptive families vary by State. Child Welfare Information Gateway's State Statute series provides information on State adoption laws.

*Collection of Family Information About Adopted Persons and Their Birth Families* is available on the Information Gateway website: [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/collection.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/collection.cfm)

To find statute information for a particular State, visit: [http://www.childwelfare.gov/systemwide/laws\\_policies/state/index.cfm](http://www.childwelfare.gov/systemwide/laws_policies/state/index.cfm)

While your State's statutes and your agency's policies specify disclosure requirements, below are suggestions for information that should be provided to parents.

- **Obtain and disclose "material information" on the adopted child's history.** Material information is any information that might be helpful to a prospective adoptive parent in deciding whether to adopt a particular child. Some wrongful adoption cases have considered birth parents' physical and mental health histories and a child's history of emotional or behavioral problems as "material" information. Additionally, the definition of a child welfare professional's duty to use "reasonable efforts" to discover background information varies by State. Check your State's statutes for specific requirements. The Indian Child Welfare Act (ICWA) requires "active efforts." Read about the ICWA active efforts requirement in the Native American Affairs Glossary: <http://www.mfia.state.mi.us/olmweb/ex/NAG/GLOSSARY.pdf>

- **Provide adoptive parents with written disclosure of background and health information.** While State statutes will dictate these requirements, whenever possible, agencies should provide actual copies of reports, assessments, or other documents, rather than summarizing the material. Errors in transcription can alter the meaning and leave the agency open to liability due to negligence.
- **Educate prospective adoptive parents about the limitations of information gathering and disclosure.** Agencies should explain to families that in virtually every case there is information that the agency may not know. Agencies should identify any areas where information is known to be missing and explain that all existing information may not have been discovered. For example, children who have been sexually abused may not feel comfortable speaking about the abuse until they are in a safe, stable environment. Indeed, an adoptive parent may be the first person a child feels comfortable talking to about an incident of sexual abuse. See Child Welfare Information Gateway's *Obtaining Background Information: A Factsheet for Families* for more information.
- **Disclose the child or youth's possible Tribal heritage to ensure you are in compliance with the ICWA.** However, not all children or youth will know if they are American Indian or Native Alaskan. The California American Indian Enhancement (AIE) Project's Implementation Toolkit includes a list of common responses by individuals who may be unaware of or unwilling to open up about their heritage because of distrust or historical trauma. The toolkit also provides a 12-minute video

highlighting why workers should ask every child and family receiving services if they have American Indian or Alaska Native heritage, and it offers direction on culturally sensitive ways to inquire about ancestry.

For more information, visit the AIE Project's website:

<http://calswec.berkeley.edu/toolkits/implementation-toolkit-american-indian-enhancement-project/implementation-toolkit-american-indian-enhancement-project>

View the FACES instructional video:

<http://calswec.berkeley.edu/toolkits/implementation-toolkit-american-indian-enhancement-project/faces-instructional-video>

More information on the ICWA is available on the Information Gateway website:

<http://www.childwelfare.gov/systemwide/courts/icwa.cfm>

Additionally, in this digital age, it's important to acknowledge that many adoptive families may use Facebook and other forms of social media to obtain information. Birth families may disclose important information on Facebook, MySpace, Twitter, and other accounts that can provide adoptive parents a better understanding of the child's family history. Being aware of social media accounts of the birth families you work with may help you obtain some information to provide to adopting families. However, be sure to convey to the adopting family where the information was gathered. Additionally, it's important to recognize that information shared via social media outlets may need to be verified.

Prospective adoptive parents may ask the following questions or request the following information:

- How complete is the social/medical history on the birth family, including extended family?
- What is the birth family's racial, ethnic, cultural, and religious background?
- What do the child's birth parents, siblings, and other close relatives look like? Are there pictures? Who does the child look like in the birth family?
- Is there a family history of drug or alcohol abuse?
- Is there a family history of mental illness or other genetic conditions, or predispositions to diseases such as diabetes or heart disease?
- What is known about the birth parents' developmental history—physically, emotionally, and cognitively, including language development?
- What is known about the educational background of the birth parents and the child's siblings?
- What was the birth mother's health like during pregnancy, and what was the health of each parent at the time of the child's birth?
- What prenatal care did the child receive, and what was his or her condition at birth?
- Are there prior medical, dental, psychological, or psychiatric examinations and/or diagnoses for this child?
- Are there records of any immunizations and/or health care received while the child was in out-of-home care?
- What is the child's current need for medical, dental, developmental, psychological, or psychiatric care?
- What is the child's HIV status?
- Why did the birth parents make an adoption plan for the child, or why was the child removed from his or her birth family?
- Did the child suffer any physical, sexual, or emotional abuse or neglect? How old was he or she? How often did these traumas occur?
- How many placements did the child experience, where and with whom (e.g., relatives, foster families, residential treatment facilities, hospitals)? What were the reasons for any placement changes? What does the child remember about his or her placement experiences? What does the child believe about why he or she moved from one caregiver to another?
- Where is the child currently enrolled and what is his or her performance at school?
- What are the results of any educational testing? Does the child have any special educational needs or outstanding abilities?
- What are the child's special interests, talents, and/or hobbies?

## Helping Families Understand the Impact of Background Information

Social workers can help prospective families understand the possible impact of a child's history, particularly trauma or institutionalization, and mitigating factors such as a strong child-parent relationship (Whitten & Waver, 2010). Workers may provide the family with a written description of the critical events of the child's life (such as abuse/neglect or removal from birth parents) and then ask the adoptive family to write down their thoughts on the following questions (Edwards, 2002):

- What messages or beliefs (about parents, themselves, the world, social workers, adults, etc.) might a child have learned from his or her experiences?
- What might be the expected feelings and behaviors of a child who believes these things?
- What are the recurring themes in this child's life?
- What new messages might the adoptive parents want to give this child?
- How will the adoptive parents feel about discussing this information with the child?

This process can be repeated during the visiting phase of placement for domestic adoptions and again when the child moves into the home. After the child has been with the family for some time, the social worker can review with the family their thoughts at each stage of the domestic placement process

(Zeigler, 1996). The adoption professional should be ready to provide referrals for specific postplacement and postlegal adoption services, as needed. Providing adoptive parents with opportunities to anticipate the impact of previous experiences on their children helps to educate the prospective family and ensure that they are connected with needed services.

## International Adoptions When Agencies Have Little or No Information

In some countries, particularly where children have been institutionalized or spent periods of time in orphanages, full medical records may not be available. Translation issues, cultural differences, and differences in medical systems can make it difficult to interpret the available information. In some instances, there may be no information at all regarding a child's social and medical history. Agencies can disclose only the information they have obtained. Clearly communicate to families, in writing, the limitations (in quantity and reliability) of information made available. Ideally, caseworkers prepare families for the need to make a decision about a child even when there is little or no information.

## Wrongful Adoption

The Ohio Supreme Court first recognized “wrongful adoption” in 1986 as a valid reason for adoptive parents to file a lawsuit against an adoption agency. In that case, the court found that the agency failed to disclose or misrepresented the health status or background of an adopted child at the time the child was placed.

In addition to the State Statute series and searchable database, Information Gateway has produced the resource guide Online Resources for State Child Welfare Law and Policy: [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/resources.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/resources.pdf)

Emmaneel (1999) discusses the evolution of wrongful adoption legislation in the United States and other issues pertaining to the responsibilities of child welfare professionals and the rights of adoptive and birth parents: <http://digitalcommons.law.ggu.edu/cgi/viewcontent.cgi?article=1740&context=ggulrev>

The North American Council on Adoptable Children’s (NACAC’s) article “Families Need the Whole Truth” (2004) discusses the importance of disclosure in order to ensure successful adoptions and provides advice for agencies: <http://www.nacac.org/adoptalk/wholetruth.html>

## Policies for Providing Information

Agencies need to provide full background information to prospective parents in order to ensure the adoption is as successful as possible as well as to meet the State’s laws. However, merely meeting the State’s statutory requirements may not be enough to guard against wrongful adoption claims. Agencies and intermediaries can minimize their exposure to liability for wrongful adoption by taking the following steps in keeping with their State’s statutes and administrative regulations:

- **Develop clear policies and guidelines on the collection and disclosure of social and family background information.** Ensure that, at a minimum, agency policies regarding information collection and disclosure meet your State’s legal requirements. Standardize protocols for collection and disclosure to ensure all necessary records and evaluations are obtained, and provide clear guidelines to caseworkers carrying out these protocols.
- **Make staff training a priority.** Agencies should ensure staff members are thoroughly familiar with best practices and State legal requirements for collecting and communicating background information. In-field coaching is a valuable way to ensure staff are properly trained on this important issue. Visit the National Implementation Resource Center for more information on on-the-job training: <http://nirn.fpg.unc.edu/learn-implementation/active-implementation-theory-and-practice/coaching>

More training information is available on the Information Gateway Curricula and Training for Adoption Administrators, Managers, and Supervisors web section: [http://www.childwelfare.gov/adoption/adopt\\_managers/curricula.cfm](http://www.childwelfare.gov/adoption/adopt_managers/curricula.cfm)

- **Obtain appropriate liability insurance.** Agencies might consider obtaining or reviewing their current liability insurance to ensure they have general liability and umbrella clauses, as well as professional liability to protect their staff in the event of claims related to professional services rendered. Membership organizations such as the National Association of Social Workers will provide insurance or information as to where to obtain such insurance. [http://www.naswassurance.org/social\\_worker\\_professional\\_liability.php?page\\_id=11](http://www.naswassurance.org/social_worker_professional_liability.php?page_id=11)

Check with the Child Welfare Information Gateway, [info@childwelfare.gov](mailto:info@childwelfare.gov) or 800.394.3366, for current resources on liability insurance.

## SAMPLE STATE DISCLOSURE POLICIES AND FORMS

Disclosure statutes and policies vary by State. Below are examples of State policies and procedures for providing material background information to prospective adoptive parents.

### **Our Kids of Miami-Dade/Monroe (2010)**

Disclosure of Information to Prospective Adoptive Parents

<http://www.ourkids.us/ourpartners/Documents/Disclosure%20of%20Information%20to%20Prospective%20Adoptive%20Parents/Disclosure%20of%20Information%20to%20Prospective%20Adoptive%20Parents.pdf>

### **Michigan Department of Human Services (2010)**

Required Information to Be Shared (Adoption Services Manual 670)

<http://www.mfia.state.mi.us/olmweb/ex/adm/670.pdf>

### **Oklahoma Department of Human Services**

Medical and Social History Report for Adoption

<http://www.okdhs.org/NR/rdonlyres/D32AB6E5-A2E1-4C45-8752-C7E58E010C40/0/04AN347E.pdf>

## Conclusion

When information about developmental, trauma, placement, educational, and social histories is disclosed to prospective parents at the beginning of the adoption process, adoptive parents are more likely to have more realistic expectations of what it will be like to parent their child or youth. Full disclosure can help adoptive parents become the best possible parents for their child, may help reduce adoption disruption and dissolution, and may increase adoption stability (Barth & Berry, 1988; McRoy, 1999). Child welfare professionals have a legal responsibility to provide prospective adoptive parents with this important information, and it's in the best interests of the children and their new families.

## Additional Resources

Child Welfare Information Gateway's Bringing Children and Families Together web section provides a list of recommended books and journal articles you can find at your local library, bookstore, or download onto your e-reader:

[http://www.childwelfare.gov/adoption/preplacement/bringing\\_together.cfm](http://www.childwelfare.gov/adoption/preplacement/bringing_together.cfm)

*Finding a Fit That Will Last a Lifetime, A Guide to Connecting Adoptive Families With Waiting Children*, a resource produced by AdoptUSKids, offers practice tips and an information-gathering checklist:

<http://www.adoptuskids.org/assets/files/NRCRRFAP/resources/finding-a-fit-that-will-last-a-lifetime.pdf>

The National Resource Center for Adoption's *Adoption Competency Curriculum* provides useful strategies, information, frequently asked questions, and other tools, such as the Assessment Checklist. The checklist helps professionals gauge whether sufficient information has been collected:

<http://www.nrcadoption.org/pdfs/acc/PH%20-%20Family%20Assessment%20&%20Prep%203-10.pdf>

The article "Plan, Prepare, and Support to Prevent Disruptions" discusses the role information can play in reducing disruption and dissolution and is available on NACAC's website: <http://www.nacac.org/adoptalk/planpreparesupport.html>

"Ethics and Adoptive Family Recruitment" from the Spring 2004 issue of NACAC's *Adoptalk* explores the use of photolistings for child-specific recruitment and its impact on disclosure:

<http://www.nacac.org/adoptalk/ethics.html>

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