

# CONSIDERING ADOPTION or LEGAL GUARDIANSHIP?



## About Adoption

- ◆ Adoption provides the highest level of legal permanence for children who cannot return home.
- ◆ All children and youth are adoptable.
- ◆ Youth 12 and over must agree to adoption.
- ◆ Adoptive families can be relatives or non-relatives who can be single, couples, heterosexual, gay, lesbian, bisexual or transgender. They can be any age over 21, and must be at least 10 years older than the child to be adopted.
- ◆ Adoptive parents must undergo an assessment by a licensed Adoption Agency, resulting in an approved Adoption Homestudy .
- ◆ Adoption ends all rights and responsibilities of birth parents and adoptive parents assume all of these rights and responsibilities.
- ◆ After adoption, the agency is only involved in the provision of Adoption Assistance Program (AAP) benefits or post adoption services, if requested.
- ◆ The child or youth's name after adoption can remain the same or be legally changed.
- ◆ Adoptive families can determine the level of birth family relationships and contact after adoption.
- ◆ Youth adopted after their 16th birthday may participate in Independent Living Skills Program (ILSP), except for Housing Assistance Programs.
- ◆ Adoption Assistance Program benefits can only be paid to an adoptive parent.
- ◆ Adoptive parents should designate in their Will who is to raise their child in the event of their death.

## About Legal Guardianship

- ◆ Legal Guardianship is a viable permanency option, though it is not as legally secure as adoption.
- ◆ The court can terminate a guardianship, or birth parents can petition the court to dismiss a guardianship at any time.
- ◆ The Legal Guardian (LG) has parental responsibility for the care, control, and conduct of the child.
- ◆ Legal Guardianship suspends the legal rights of the birth parent, however, they may have the right to visit and the right to be involved in school and planning.
- ◆ Legal Guardianship legally ends at age 18, or may be extended if the youth is still in high school. Relationships continue on for a lifetime.
- ◆ All prospective Legal Guardians must meet state guidelines and requirements.
- ◆ Relative Legal Guardians may obtain support from local Kinship Support Services Centers.
- ◆ Guardians may move within California but need a Juvenile Court order to move out of state. Funding varies from state to state.
- ◆ Youth in guardianship after their 16th birthday may participate in Independent Living Skills Programs (ILSP). Housing assistance is limited.
- ◆ Guardianship ends in the event of the death of the guardian. The birth parent may petition the court to regain custody, or the court may place the child in foster care.

Financial Issues regarding Adoption and Legal Guardianship on reverse. For more detailed comparisons, see updated 2009 [A Comparison of Financial Benefits](#) from Alameda County Social Services Agency's

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# FINANCIAL ISSUES REGARDING ADOPTION AND LEGAL GUARDIANSHIP



## Regarding Adoption:

- ◆ Agency adoption fees are low cost or can be waived. (Alameda County's Agency Adoption Homestudy fee is currently \$500.)
- ◆ Up to \$400 can be reimbursed to families for adoption related expenses.
- ◆ Adoptive families are eligible for a tax benefit up to \$10,960.00 per adopted child.
- ◆ Ongoing financial assistance is available through the Adoption Assistance Program.
- ◆ Family income is not considered in determining AAP eligibility. Most children in foster care are eligible for AAP.
- ◆ AAP rates are negotiated, and family circumstances may be considered.
- ◆ Rates are based on the basic age-related foster care rate and may include a special care increment, based on the child's needs and what the parent does to meet those needs.
- ◆ Children eligible for AAP are also eligible for full scope Medi-cal coverage. They can apply for Medicaid if they live in or move to another state.
- ◆ AAP funding continues regardless of where the family lives.
- ◆ AAP provides age related increases, if requested by the adoptive parent.
- ◆ No clothing allowances are available.
- ◆ AAP can cover room and board for approved residential treatment, if needed, for up to 18 months per episode.
- ◆ AAP ends at age 18, regardless if the child is still in high school. AAP may continue until age 21 if the child has a documented disabling condition.
- ◆ AAP benefits may only be paid to an adoptive parent.
- ◆ Youth adopted on or after their 13th birthday are treated as "independent" students, and are eligible for state and federal financial aid without consideration of their adoptive family's income.
- ◆ When a child is adopted prior to age 13, the adoptive parent's income is considered in determining the amount of financial aid for college.
- ◆ Youth adopted after their 16th birthday are additionally eligible for Chafee funding for college.

## Regarding Legal Guardianship:

- ◆ Funding comes from the county or state in which the Legal Guardian (LG) resides. Payments and procedures differ between counties and states.
- ◆ Funding differs for relative and non-relative Legal Guardians. (see below)
- ◆ All children under Legal Guardianship are eligible for Medi-cal as long as they live in California.
- ◆ Clothing Allowances are provided.
- ◆ Legal Guardians receive age related increases.
- ◆ To access funds for residential treatment, the guardianship may need to be rescinded and/or dependency reinstated.
- ◆ Funding terminates in the event of death of the LG; however payments may continue in the event of appointment of a successor Guardian.
- ◆ Youth under guardianship are eligible for "independent" student status, and the Legal Guardian's income is not considered for state or federal financial aid.
- ◆ Youth in foster care up to or after their 16th birthday are eligible for Chafee funding for college.

### Relative Legal Guardians

- ◆ Some relative Legal Guardians are eligible for Kin-GAP funding.
- ◆ The Kin-GAP payment equals the rate that was paid on behalf of the child while he/she was in foster care, including any specialized care increment that the child was receiving in the month prior to the guardianship order.
- ◆ The Kin-GAP special rate, if any, is locked in and cannot be increased or decreased after the guardianship is ordered.
- ◆ Kin-GAP is recertified annually.

### Non-Relative Legal Guardians

- ◆ Non-relative Legal Guardians receive foster care funding which include the basic age related foster care rate; it may include any special care increments the child is eligible for, based on the child's needs and what the caregiver does to meet those needs.
- ◆ Rates for non-relative Legal Guardians are reassessed annually.

Considerations regarding Adoption and Legal Guardianship on reverse. For more detailed comparisons, see updated 2009 [A Comparison of Financial Benefits](#) from Alameda County Social Services Agency's

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