

# ADOPTION ADVOCATE

April 2019

NO.  
130

Chuck Johnson, *editor*  
Ryan Hanlon, *editor*  
Melinda Clemmons, *editor*

## Adoptive Parents' Bill of Rights

BY MARK L. MELSON

**T**he decision to begin or grow your family through adoption is certainly life-changing and rewarding. This decision can also bring with it a great deal of uncertainty and emotion. One hundred years ago the process was fairly simple. Today, things are much more complicated! As you begin this journey, many factors can weigh into your decision. “From whom and how will our child come to us? What resources are available to support our family during and after the adoption process? Are we the right family for this child? How much does it *really* cost to finalize an adoption? What laws will protect the adoption?” And so on!

Adoption laws vary from state to state, practices within adoption agencies and attorney offices also have nuanced differences, and it's almost certain that every adopting parent will experience the adoption process in unique and personal ways. That said, we believe that there are generally accepted best practices that should hold true in every adoption. Although our “Bill of Rights” for adoptive families is not necessarily written in stone, we believe that the list below should be basic in every adoption and, if followed, will give you a foundation from which to begin this journey and help guide you along the way.



National Council  
For Adoption

225 N. Washington Street  
Alexandria, VA 22314  
(703) 299-6633  
[www.adoptioncouncil.org](http://www.adoptioncouncil.org)

## 1. The right to work with a licensed, competent adoption professional.

Anyone can hang a shingle out that says “adoption expert,” but a key focus should be on an Adoption Service Provider (ASP) that offers comprehensive adoption services. These are services that follow an adoptive parent through the entire journey. (More to come on this in the following rights.) The licensing part is clear: The provider should be licensed to conduct adoptions in the states in which they operate and if working internationally, they should be Hague accredited or working with a Hague accredited agency. In the adoption world there are licensed adoption agencies, experienced adoption attorneys, and unlicensed adoption consultants/facilitators. Your specific circumstances will help dictate the best choice for you but there are important differences with each ASP. A licensed *adoption agency* should provide the entire scope of service from preadoption education and training, counseling throughout the process, matching to the right child, legal placement, and post-adoption support. An experienced *adoption attorney* will help with the legal adoption process that can take place either before or after a child or expectant parent has been identified. When working with an adoption attorney, counseling support is generally not provided but you may be referred to an outside professional service. *Adoption consultants/facilitators* can vary in their services from helping to find the right agency or attorney, to helping identify the right adoption program, to helping identify a child or expectant parent. All of the adoption services will then be contracted out to licensed partner agencies or attorneys in their respective states. See National Council For Adoption’s (NCFCA) articles on selecting an adoption agency: <http://www.adoptioncouncil.org/publications/2014/08/adoption-advocate-no-74>

You should be cautious about using an unlicensed consultant. Although their intentions may be pure, this practice may result in additional costs and frustrations throughout the adoption process. See NCFCA’s and Academy of Adoption and Assisted Reproduction Attorneys’(AAAA) caution against using unlicensed consultants: <http://www.adoptioncouncil.org/publications/2014/04/adoption-advocate-no-70>

An ASP’s competence is a little tougher to judge. Adoptive parents have the right to know the entire scope of the ASP’s services including programs they operate, approximate number of families they are currently working with, number of placements they complete each year, and their overall financial stability.

*Adoptive parents have the right to know the entire scope of the ASP’s services...*

## 2. The right to transparent fee information.

An ASP should disclose an estimate of what your entire costs will be, the timing of those fees, who is receiving these fees, what possible grants or loans may be available, and what fees are refundable and when, including exceptions.

## 3. The right to make fully-informed decisions.

Most ASPs begin with an application fee that starts the process, followed by a home study, and then the wait between approval and the adoption. Early in the process potential adoptive parents (PAP) should be informed what pre-adoption education will be provided by the ASP, and it is recommended that prospective adoptive families take full advantage of these very important educational services. This is a critical step that is often overlooked due to the excitement of the potential child that will be placed in their home. PAPs need to be educated on the effects of the actions of the expectant mother both before and during pregnancy. They also need to be aware of the effects that a stressful pregnancy and childbirth can have on a child. They need to be aware of how trauma experienced by the child at an early age can affect the child. Most families report that these services are not only excellent preparation for parenting, but that they additionally motivated and encouraged them in their wait to become parents.

*Early in the process potential adoptive parents (PAP) should be informed what pre-adoption education will be provided by the ASP, and it is recommended that prospective adoptive families take full advantage of these very important educational services.*

## 4. The right to as much information as is available regarding the child's biological family and health.

Having complete access to this very valuable information is always challenging because it will never be 100 percent accomplished. ASPs are at the mercy of the information given by an expectant mother (and many people don't know or won't share their personal and family information) or their physician (if available), or the sending country representative, or public agency partner. The ASP should be able to explain to adopting families how it acquired the child's historical information and what information may be unavailable.

## 5. The right to be matched well with the child you adopt.

You should expect your ASP to take the time to get to know you. A home study is a powerful tool to aid in this discovery and will identify many key factors to make sure you are the right family for the child that is

eventually placed in your care. But it does not tell the whole story. For example, your ASP caseworker should spend time learning beyond the home study. They should take time to discover what kind of a parent you will be, how you were parented, and if there are any unresolved issues from your childhood, etc. Remember, this “connecting” is a two-way street. The ASP should be working just as hard with the expectant mother, the public foster care agency, or intercountry official, to make sure you will be the best parent for the child.

## 6. The right to a level of openness in which all are comfortable.

The openness of adoptions has evolved over the past 30 years. Many adoptive parents were afraid to have any contact with a birth parent for fear they might learn of the child’s whereabouts or try to make contact in the future and disrupt the family unity. As we look at the best interest of the child, a certain level of openness can be not only healthy but also can aid the growing child with answers to questions about their biology and help shape a healthy identity formation. We also have to recognize that in many adoptive situations (for example, intercountry adoption), there may be little or no contact with biological family, and research shows that with support and understanding from their family, people who were adopted can form healthy identities and very strong connections.

Regardless of the level of openness between the adoptive parent and birth parent, the agreement should be transparent and agreed upon prior to the adoption. Depending on the state, many of these contracts can be legally binding, but others are just ‘agreements of the heart’ but should be followed just the same. The post-adoption services provided by the ASP should continue to provide support to both the family created through adoption and the birth parents regarding their ongoing relationship. All, however, should understand that this open relationship may change if it is in the best interest of the child. Education is critical with the adoptive and birth families to determine the right level of openness for each situation. NCFCA advocates for these same rights for both the birth parents and adopted persons: <http://www.adoptioncouncil.org/publications/2018/12/adoption-advocate-no-126>

## 7. The right to access post-placement and post-adoption support from the agency.

Post-placement services go beyond just the legally required check-in until you finalize your adoption, and the degree these services are offered will vary based upon the type of adoption provider you use. With most

*As we look at the best interest of the child, a certain level of openness can be not only healthy but also can aid the growing child with answers to questions about their biology and help shape a healthy identity formation.*

adoption attorneys and licensed facilitators/consultants, once you have finalized your adoption, their services and support will likely end. A full service adoption agency should provide adoption-related resources for life. It should also be noted that the range of post-adoption supports and resources will vary even in full service adoption agencies. Some professionals will continue to support you through providing information about the birth parents and assist you with carrying out your post-adoption agreement, while others will provide ongoing counseling and support through their own services or referrals to others in your area. An agency adoption is a little like buying life insurance—you hope not to need their services post-finalization, but you are glad they are there if you do. Post-adoption services tend to be an afterthought for most adoptive parents. However, these services will be some of the most critical in your adoption journey and should be taken into consideration when selecting your ASP. Each ASP should be able to detail specifically what they will and will not be able to provide post-adoption. See NCFCA's article on post-adoption expectations: <http://www.adoptioncouncil.org/publications/2014/12/adoption-advocate-no-78>

## 8. The right to have confidential information protected.

Confidentiality is critical in both the pre- and post-adoption relationships. Adoptive parents (along with expectant parents and individuals who are adopted) have the right for their personal information to be protected. For adoptive parents, this includes the right for some information to remain confidential until the person who was adopted reaches the age of majority. In some cases, sharing information from the adoptive parents' case file is only done at the discretion of the adoptive parents or adoptee. The level of confidentiality is usually determined by both parties (see point 6 above on openness) prior to the adoption. Please note that agency policy and state laws may determine how much information an adoptee can access in his/her file.

## 9. The right to a fair and legal process and utilization of federal policies.

Adoptive parents have the right to be treated fairly by the ASP and be presented with an adoption plan that is secure in the legalization of the adoption. Adoptive parents have the right to take advantage of state and federal policies that benefit the adoption process such as the Adoption Tax Credit (if they qualify) and the Family Medical Leave Act.

*Post-adoption services will be some of the most critical in your adoption journey and should be taken into consideration when selecting your ASP.*

## 10. The right to change their mind about proceeding with an adoption plan prior to finalization.

The adoption process is an emotional and life changing event. In some cases, adoptive parents may realize that adoption is not the right choice for their family and neither is it in the child's best interest. Adoptive parents have the right to change their minds prior to finalization as to the type of adoption, severity of special needs of the child, or whether to even proceed with the adoption. Depending upon the ASP chosen, there may be financial ramifications to this change, and services rendered may not be refundable.

## 11. The right to parent their child as they would a biological child.

In today's society those outside of the adoption community (or new to it) tend to refer to "your adopted child," or "I have one biological and one adopted," instead of just "two children." Although there are biological differences, in the eyes of the court there should be no difference in your parenting obligations and responsibilities. This does not mean parents should parent all children the same; it is to say that they have the *legal authority* to parent the same. The Colorado Supreme Court held that "adoptive parents have the right as natural parents in controlling the upbringing of their child." The Supreme Judicial Court of Massachusetts held that "adoptive parents have the same protected interest in their relationship with the adoptive child as biological parents and are entitled to the same presumption they will act in the best interests of the child in making decisions regarding the child, including decisions about visitation."

Every decision should be made in the best interest of the child and made by the legal parents. As discussed earlier in post-adoption agreements, these agreements are varied and made in many cases before the child is born. It's difficult to parent to an agreement that may not take the child's best interest to heart. This is where court enforced post-adoption agreements can cause unintended issues. (See NCFCA's article on court enforceable agreements: <http://www.adoptioncouncil.org/publications/2018/08/adoption-advocate-no-122>.)

*Every decision should be made in the best interest of the child and made by the legal parents.*

## Conclusion

In conclusion, the adoption journey should be a beautiful and meaningful act for those who place a child for adoption, for the family created through adoption, and most importantly, for the child. However, as beautiful as the outcome is, the process can be frustrating, complicated, emotional, and expensive. The simplicity of the past is no longer present in today's adoption environment, and that is why using a qualified professional is critical to helping prospective adoptive parents navigate the legal and emotional journey to parenthood successfully. Regardless if the motivation is to start or grow your family, when considering adoption due diligence must be done regarding the type of adoption and which service provider to use. Adoptive parents should know their rights and ensure that the service providers they work with are respectful and supportive of those rights.

## ABOUT THE AUTHOR

Mark L. Melson is the President and CEO for the Gladney Center for Adoption in Fort Worth, Texas. Gladney, a national leader in adoption for 132 years has placed more than 31,000 children into loving and caring families. Mark began his career at Gladney 11 years ago as the Chief Development Officer. Later in his role as Chief Operating Officer, Mark oversaw the adoption operations along with marketing and post adoption services. Currently Mark serves on the Board of Directors of Children's Home Society of America. Previously he was head of planned giving and major gifts at Texas Health Resources, a multi-hospital network located in North Texas. Mark has been designated as a Certified Specialist in Planned Giving (CSPG) from California State University, and is a Certified Fund Raising Executive (CFRE). He has a BBA and MBA from the University of North Texas. Mark has over 24 years' experience in nonprofit management and he and his wife live in Colleyville, Texas with their three children.



National Council  
For Adoption

SUPPORT NCA  
DONATE ONLINE ►  
[www.adoptioncouncil.org](http://www.adoptioncouncil.org)