



Navigating LGBT Adoptions

Pitfalls, Protections on the Road to Parenthood



Ethica, Inc. is a tax-exempt non-profit organization that is an independent voice for ethical adoption. Ethica advocates for national and international improvement of adoption practices, offering support, education and advocacy to all persons affected by adoption. To maintain our independence, Ethica does not accept monetary support from anyone who places children for adoption.

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Introduction

As any parent will tell you, there is no harder job on earth than raising children. Yet, as true as that might be, *becoming* a parent through adoption is no small feat either, and the task can be particularly daunting for gay, lesbian, bisexual, or transgendered individuals or couples.

The face of the American family has been changing rapidly over the last few decades. The model of the “traditional family” has given way to a medley of “normal” family configurations that include stepfamilies, adoptive families, transracial and transnational families, foster families, families where extended family, or kin, parent children of relatives, and GLBT families.

This guide will focus on building GLBT families through adoption, because even as the debate about gay and lesbian marriage rages on, families continue to grow through love, strength, and commitment. It may take decades for the law to “catch up” with the reality of GLBT families, but there are ways, now, to build your family. At the same time, Ethica recognizes that GLBT families face many challenges, from the policies of adoption professionals to a dearth of available information on the adoption process.

This guide is designed to provide you with necessary background information and resources to use while you are considering adoption or engaging in the adoption process. Adoption is an exciting time in your life; this guide is meant to keep your feet on the ground while your head is in the clouds. This guide is not legal advice, and should not be used in place of qualified legal counsel. It will, however, provide you with practical information that will help you make the many decisions that accompany the adoption process. So, as you read through the guide, make notes about items you would like to discuss with your attorney or other adoption professionals. With time and information, you will be able to find the path to building your family that is right for you. Peaks and valleys are expected in this emotional and sometimes difficult process, but with proper preparation you can avoid unnecessary pitfalls.

As you plan to build your family, please keep in mind this special note about the communities we serve, a message that we believe will have particular resonance within this community that has also seen its rights trampled, equality suppressed and lives marginalized: A fundamental guiding principle in our philosophy is that, whenever it is possible and safe, children should be raised by their biological

parent(s). Poverty, youthful age, marital status, and gender are not valid reasons for a person to be prevented from parenting their child. Just as gender, sexual orientation, marital status, and religious affiliation are not valid reasons for the GLBT community to be denied parenthood, so it should be for any parent. Please respect this guiding principle that respects all families.

This Guide has been made possible through a generous grant from The Alliance Fund. The Alliance Fund is committed to furthering the causes of GLBT Rights in Southern Arizona for over nine years.

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A Brief History of GLBT Adoption

Since the Stonewall Riots in New York City in 1969, lesbian, gay, bisexual, and transgender (LGBT) persons and their heterosexual allies have advocated for basic civil rights. While much of the national effort has focused on same-sex marriage rights or anti-discrimination laws, same-sex adoption has been at the forefront of many state and national debates. Several national, state, and local organizations have played a role in opening up opportunities for LGBT persons to adopt—beginning in the 1970s and continuing into the present time. A basic understanding of where the movement started is helpful in understanding and appreciating where we are today. Thus, this introduction seeks to highlight several of the organizations that have paved the way to where we currently stand on the issue of LGBT adoption.

In 1976, the American Psychological Association became one of the first professional organizations to declare that adoption cases should not primarily be decided on the basis of the sexual orientation of the parent.² Following this declaration, several other national professional associations issued similar statements. For instance, in 1988 the Child Welfare League of America issued a policy statement announcing their efforts to end sexual-orientation-based discrimination in adoption policies and legislation.³ Between 2000 and 2002, the National Association of Social Workers, the American Academy of Pediatrics, the American Academy of Family Physicians, the American Psychiatric Association, and the American Psychoanalytic Association all endorsed LGBT adoption.⁴ These statements and policy recommendations have been vital tools in combating legal challenges and fighting for adoption equality.

In addition to the professional organizations that have taken a stance on the issue of LGBT adoption, national, state, and local LGBT organizations have been key advocates in paving the way for LGBT persons to adopt. In 1979, the Family Pride Coalition (now called the Family Equality Council www.familyequality.org), became one of the first national organizations to connect LGBT parents and to advocate for their rights. Today, the Family Equality Council serves over 35,000 members. COLAGE (Children of Lesbians and Gays Everywhere, formerly known as Just Us), a group specifically founded by and for the children of same-sex parents, was born out of the Family Equality Council and plays a key role in advocating for equal rights for LGBT parents. A second LGBT-parent focused organization, Families Like Ours, Inc. (www.familieslikeours.org), was founded in 2000.

Another organization that was, and remains, crucial in the fight for LGBT adoption rights is the National Center for Lesbian Rights (NCLR; www.nclrights.org). In 1986, the NCLR represented the first same-sex couple to successfully adopt a child in the United States.⁵ In 1987, NCLR successfully introduced “second-parent adoptions” as a strategy for same-sex couples to adopt, a strategy now available in several states. Today, the NCLR continues to advocate for LGBT parents, while also handling cases against adoption businesses that discriminate against same-sex couples and single parents.

Other national LGBT organizations that have played a role in LGBT adoption rights include the American Civil Liberties Union’s (ACLU) Lesbian, Gay, Bisexual, and Transgender Project; Parents, Friends, and Family of Lesbians and Gays (PFLAG); the Gay, Lesbian, and Straight Education Network (GLSEN); the Human Rights Campaign (HRC); Lambda Legal, and Gay and Lesbian Advocates and Defenders (GLAD).⁶

Locally, in Southern Arizona, nonprofit organizations have played a crucial role in educating the public about LGBT adoption, and in advocating for LGBT parents and families. One of the most visible local organizations is Wingspan: Southern Arizona’s Lesbian, Gay, Bisexual, and Transgender Community Center (www.wingspan.org). Since the late 1970s, when small groups started to convene in Tucson, Wingspan has been advocating for and providing support to LGBT parents and families.⁷ Importantly, “Rainbow Families,” a program offered by Wingspan, provides support to LGBT families and is a central location for local and state advocacy efforts. Equality Arizona (www.equalityarizona.org), has also been very powerful in the fight for LGBT adoption rights, especially at the state level. These two organizations, among others, have helped Southern Arizona LGBT families fight for the right to be parents, and for legal protections that are afforded to their heterosexual counterparts.

Adoption Basics

The First Steps

Many people who decide to adopt think it will be a relatively simple, straightforward process with clearly defined steps. One only has to spend a few hours researching options before discovering how convoluted and complicated the process can be. Therefore, your first step should be to familiarize yourself with the basic types of child placement and the basic framework of the adoption process. Then, when you have determined which type of placement you want to pursue, you can delve more deeply into the specific steps that your choice will entail.

Types of Child Placement

There are two basic categories of adoption: domestic and intercountry.

Domestic adoption refers to the adoption of a United States citizen or resident child by United States citizen parent(s). Intercountry adoption refers to the adoption of a non-United States citizen child by United States citizen parent(s). Within each of the two categories, there are different options.

Domestic Adoption Alternatives

Domestic Public Adoption: Domestic public adoption is the adoption of children who are in the custody of the state. To adopt a child through the foster care system, prospective adoptive parent(s) generally apply to a local governmental agency (such as the Department of Child and Family Services) or an agency that contracts with the state government to place foster children for adoption.

Domestic Private Adoption: Domestic private adoption is the adoption of a child directly from the biological parents or guardian(s), without state involvement. Domestic private adoptions can be handled through a private adoption agency, a private attorney, or independently, an option where the prospective adoptive parents locate a child themselves or with the assistance of facilitator/matching services.

Kinship Adoption: Kinship adoption involves the adoption of a family member. This category includes stepparent adoption, as well as children who are adopted by grandparents, aunts, uncles, or other relatives. Kinship adoptions occur in both public adoption from foster care, and private adoption. Some families choose guardianships, rather than adoption, so that parents maintain their parental relationships with their children even when they are unable to parent on a daily basis.

Intercountry Adoption Alternatives

All intercountry adoptions are private adoptions, even when the child is living in a state-sponsored institution in their country of origin. In 2008, the United States ratified the *Hague Convention on Child Protection and Cooperation in respect of Intercountry Adoption* (“the Hague Convention”). If the child you plan to adopt comes from a country which has also ratified the Convention, the adoption will be a “Hague Adoption” and will fall under a set of procedures outlined in the Intercountry Adoption Act of 2000. Intercountry adoptions from non-Hague countries, on the other hand, are governed primarily by the provisions of the Immigration and Nationality Act and whatever state licensing regulations, if any, exist in your state.

Non-permanent Placements

Guardianship: A guardianship is not an adoption, but a temporary transfer of legal custody to someone other than the parent. Guardianships create family-type relationships between adults and children who may not be legally free for adoption for whatever reason. Guardianships are not permanent, but can be beneficial, particularly in the context of kinship care.

Foster care: Foster care is providing a temporary, loving, stable home for a child or sibling group in need, while working with a team toward the goal of family reunification or other goals such as independent living.

Steps in the Adoption Process

Whether you choose to adopt domestically or internationally, there are several basic steps that every adoptive parent must take:

Home study: The adoption home study is an examination of your eligibility and suitability as an adoptive parent. A home study generally entails your providing extensive personal background information, undergoing criminal background checks, interviews, and visits to your home, and your participation in educational activities related to adoption.

Choosing an adoption service provider: Once you determine which type of adoption you wish to pursue, you will need to engage the services of a public agency, private adoption agency, attorney, or facilitator to help you through certain aspects of the placement. In a private adoption, either domestic or international, selecting your adoption service provider will likely be the most important choice you make in the entire process.

Document preparation or processing: In many cases, you will be required to prepare either a compilation of documents (“dossier”) that will be used to match you with a child, or advertising materials that you will use to assist in locating a child for adoption. In intercountry adoption, this time-intensive process might require translations, or certification by a foreign embassy.

Locating a child: Once you are approved to adopt, the next step will be locating a child. This may involve viewing profiles of children currently in foster care, matching with a placing parent to adopt their newborn, being matched by an agency, or doing an independent search for an available child abroad, depending on which avenue you pursue.

Referral, matching, or assignment: These terms refer to the assignment of a particular child to your family. In intercountry adoption, the presentation of a child for your acceptance is called a “referral.” Domestic public agencies may prefer to use the term “matching” to describe the process in which a particular child is found to be appropriate for a particular family. In domestic private adoption you are generally matched to a prospective parent making an adoption plan for an unborn child.

Placement: This term refers to the actual entry of the child into your family. In public domestic adoption, this could follow a series of pre-adoptive visits; in domestic private adoption it may take place at the hospital immediately after birth, and in intercountry adoption, it might

take place in the foreign country, or at an airport in the United States when an escorted child arrives to meet his adoptive parents.

Post placement: This term refers to the period after placement in which a family often has scheduled visits with a social worker to evaluate how the adoption is progressing. Successful completion of a post-placement period of supervision might be required before an adoption is finalized.

Finalization: This term refers to the actual granting of an adoption decree by the Court or a foreign country, when the child becomes the legal child of the adoptive parent(s).

Post adoption: This term refers to the period after finalization. Some foreign countries require “post placement” reports even after finalization, in some cases until the child turns eighteen years old. Some adoptive families, particularly in public domestic adoption, continue to receive services for their children even after an adoption is finalized. For GLBT families, the post adoption period may be the time when a second-parent adoption—where a parent legally adopts the child that his or her partner has already adopted—occurs.

Familiarizing yourself with these steps, and the terms associated with them, will help you understand the various adoption options which are discussed in detail below.

Domestic Public Adoption: Is it for You?

At any given time, there are approximately 500,000 children in the United States foster system, and more than 100,000 of them are legally available for adoption.⁸ The largest majority of such children are school-age, and many have physical or emotional special needs, although younger children and children without significant special needs are also available. Public adoption is generally a low-cost or no-cost option for families, and some families may qualify for subsidies, tax credits or other free services. Public adoption can be a wonderful way to build your family and to provide a home for a child in need.

Public adoption is a legally viable path to parenthood for gay and lesbian families in many states, including Arizona. An estimated 14,100 foster children are living with lesbian and gay parents in the United States.⁹ More than a dozen professional organizations have released official statements in support of adoption by LGBT families.¹⁰

According to the Arizona Department of Economic Security (DES):¹¹

- There are over 10,000 children placed in out-of-home care in Arizona
- Fifty-five percent, or over 5,000 children, are in need of temporary foster home placements
- Approximately 18 percent, or 1,800 children, in foster placements are seeking permanent adoption plans
- Almost 32 percent of children requiring out-of-home care in Arizona are between the ages of 1 and 5
- Just over 27 percent of children requiring out-of-home care in Arizona are between the ages of 13 and 17
- Almost 40 percent of children in care in Arizona are Caucasian, 36 percent are Hispanic, 14 percent are African-American and 7 percent are American Indian.



The Choices

There are three ways to become parents through the public child welfare system: foster parenting, adoptive parenting, and foster-adoptive parenting. Only you can decide which option(s) are right for your family.

Foster care is providing a temporary, loving, stable home for a child or sibling group in need, while working with a team toward the goal of family reunification or other goals such as independent living in the case of older teen foster children.

- Foster parents are not interested in permanent adoptive placement, but are willing and able to provide temporary short or long-term stable homes to children in crisis.
- States urgently need foster care providers, and placements often happen quickly after foster care licensing is complete.
- Adoption through the public system is the permanent adoption of a child or sibling group currently in the child welfare system. Adoption occurs only after the birth parents' rights are voluntarily or legally terminated and the child or sibling group is legally available for adoption.
- Foster care adoptions are arranged directly through child welfare agencies, or through private agencies that contract with child welfare agencies to place children from the foster care system.
- There are significantly fewer children available for adoption than for foster care. It is estimated that approximately 18 percent of the total out-of-home placement population is eligible for adoption. Many of these children, however, may be adopted by their foster families through the foster-adoption programs (see below).
- Children placed through adoption-only programs, as opposed to foster-adoption programs, are the most likely to be older or special need children.

Foster-adoption (or legal risk) placement involves the adoption of a child who was previously your foster child. The foster parents accept placement of a child who is expected to be unable to reunite with his or her biological parents. In these placements, children may—but don't necessarily—become available for adoption.

- After relatives, foster parents are generally the first to be considered as adoptive families for a child they have already parented.
- Foster-adopt placements can be an emotionally charged option for all family members, because placements are never guaranteed to result in adoption. Reunification with the biological family may still occur, and foster families will be required to operate as part of the reunification team.
- Placement may happen much more quickly than it would in a typical adoption of a legally available child, but it could also take years before a foster child becomes legally available for adoption.
- Families and individuals who choose this option should be prepared for the twists and turns that this road may entail.

The Public Foster Care/Adoption Process

Each state in the United States will have its own process, although most state processes are quite similar. For ease of discussion, this guide uses Arizona's requirements and terminology. Information on the process in other states can be obtained from the agency that governs foster care.

If you hope to become a foster parent in Arizona, you will need to become licensed. If you hope to become an adoptive parent, you will need to become certified. The processes are very similar even though the terminology differs.

The first step in the process is to select a contracted service provider. A list of providers in Arizona can be accessed online at the following website: (<https://egov.azdes.gov/dess/fhlcontacts/ContactAgency.aspx>). It is important that you feel comfortable and have a good rapport with the provider you choose, since this provider will accompany and assist you throughout the foster care/adoption process. For more information on choosing an adoption service provider (ASP) please see Section B iii of this guide.

You will then attend a foster care orientation meeting. At this meeting, you will learn more about the statewide foster-care population, requirements you must meet to become a foster or adoptive parent, and challenges you may face. You will also have an opportunity to ask questions or voice concerns about the process.

You will then submit a formal application and undergo fingerprinting and criminal background checks to ascertain your legal suitability to become a foster or adoptive parent. The paperwork can be daunting but your service provider should help you through the process.

You will also be required to attend 30 hours of pre-adoptive education, typically divided into ten three-hour sessions. The information learned in these classes will be quite valuable to you as you prepare to parent a child who may have physical or emotional challenges to overcome. These classes also provide an opportunity to develop a support network of other foster/adoptive families who will be experiencing similar life changes.

The next step is the home study, where social workers will interview you and visit your home to determine your suitability as a parent. While many families consider this to be a nerve-wracking process, try to remember that your ASP is earnestly seeking parents for children in need and will work with you throughout the process. Most issues that arise during the home and family evaluation can be easily remedied.

Once you have completed these steps, the information is compiled and sent for a final decision on licensure. When your license is granted, you will be ready to consider children for placement.

Unique challenges for GLBT families

Unfortunately, couples and individuals may face discrimination based on sexual orientation when pursuing parenthood through the foster care system. Some states have enacted legislation designed to prevent GLBT parents from becoming foster or adoptive parents, effectively reducing the number of safe, secure homes for needy children. To date, none of these efforts have succeeded in Arizona.

Reactions to, and experiences of, members of the LGBT community who seek to become foster and adoptive parents will vary widely, even in areas with a legal history that supports these placements. You will need determination while you deal with potential roadblocks, and patience as you explore your options and find a social worker who will recognize your value as a parent and be there to advocate for you. In the long run, your perseverance will pay dividends.

You can ease your way through the process by:

- Connecting with a support group for LGBT parents or, if no such group is available, other adoptive or foster parents in the LGBT community who can share their experiences
- Seeking out recommendations for a service provider or social worker with a proven track record of providing fair, appropriate and supportive services for other LGBT individuals and couples
- Avoiding any temptation to lie or misrepresent your living situation or sexual orientation. While it is unnecessary to share what has not been asked of you, it is harmful to the integrity of the adoption process to provide misleading answers to specific questions
- Becoming aware of pending or proposed legislation that may limit your rights as a parent.

Some families who seek to foster or adopt children may be denied the right to do so. If you live in a state that permits foster or adoptive parenting by LGBT families, and you believe your rejection was related to your sexual orientation, the following organizations may be able to assist you:

[The American Civil Liberties Union's Lesbian & Gay Rights Project](#)

<http://www.aclu.org>
125 Broad Street
New York, NY 10004
(212) 549-2627

[Lambda Legal](#)

<http://www.lambdalegal.org>
120 Wall Street, Suite 1500
New York, NY 10005-3904
(212) 809-0055

[National Center for Lesbian Rights](#)

<http://www.nclrights.org>
870 Market Street, Suite 570
San Francisco, CA 94102
(415) 392-6257

Private Adoption, Domestic and International

If you wish to adopt domestically, but don't want to adopt from the foster-care system, a domestic private adoption is the choice for you. But making that decision is only the first step in the often dizzying world of private adoption. You will still have to choose whether to adopt through an agency, an attorney, or independently. And all of these paths might also involve utilizing the services of yet another adoption agency, a facilitator, or a private attorney.

Every adoptive parent will have to have the services of a local (in their state) adoption agency or social worker to perform the home study. Some states only allow agencies to do home studies; others allow independent social workers to perform them. It's generally easier to find an agency to do the home study, so most prospective adoptive parent(s) apply to a local adoption agency, which performs a home study on the parent(s) to determine adoption eligibility.

Some parents then proceed to adopt a child through that same local agency, which handles all the details of the placement through finalization and post-placement work. This type of "full-service" adoption, where everything is handled in one location, is often less stressful for adoptive parents. However, in some cases, the local agency does not actually have children to place for adoption. Instead the local agency contracts with a larger agency, either in its state or another state, for placement services. Or, if an agency has a long list of waiting parents, or is projecting a lengthy wait of several years before receiving a placement, the prospective parents themselves may search for children to adopt.

As more and more parents seek to adopt while the number of available, healthy infant children is declining, facilitation services have sprung up around the country to provide matching services for adoptive parents. In most adoptions today, the expectant parent reviews profiles of many different prospective adoptive parents and then chooses a family to parent their child. Thus, adoptive parents often register with a facilitator who uses a network of attorneys or other facilitators in several different states, providing the parent with increased chances of being chosen by people seeking to place their children for adoption.

Similarly, to adopt a child from overseas, a United States citizen parent generally uses the services of at least one, but most often more than one, adoption agency. The family applies to a local agency, which performs a home study and approves the family to adopt. The local agency or prospective adoptive parent often then

contracts with another agency which has adoption programs in various countries. These agencies generally use independent contractors called facilitators in the foreign country. Such facilitators often contract with many different agencies.

All of these variables mean that you may, in reality, be working with multiple adoption professionals—or you may handle a significant part of the adoption process yourself. Of particular note is the process of finding, and discussing adoption with, the expectant parents of a child you wish to adopt domestically.

Because choosing your adoption service providers and interacting with the biological parents of your future child are two of the most important aspects of the journey ahead, it is appropriate to consider these issues before you determine whether, and which type of, private domestic adoption or international



adoption is best for you. In addition, consideration of “open adoption”—an adoption in which the biological parent of the child has some form of ongoing contact with the child—is warranted, as is consideration of the identity and social issues involved in becoming a transracial or transnational family. The following sections are designed to encourage careful thought about these issues.

Choosing an Adoption Service Provider

What is the difference between an agency and a facilitator?

Generally, when people speak of an “adoption agency,” they are referring to an agency that has been licensed by a state to place children for adoption. Most states have rules regarding the number of employees, the type of education and degrees the directors should have, the type of records they have to keep, and policies they must follow. In most states, individuals can also provide home study services, although the regulations vary from state to state. Some international agencies also have overseas staff; staff are actual employees of the agency and not simply contracted workers who provide services for specific fees (such contract workers are generally considered facilitators).

A facilitator is an agent or a go-between working to connect the adoptive family (or their agency) with a child who is available for adoption. In domestic adoption, facilitators often work to connect a family or their representative with another agency or attorney who knows of a mother looking to place her child for adoption. Most states do not license facilitators. If they do, they likely do not require them to meet the same qualifications for staff, education, or other child welfare services. Therefore, there may be no official oversight for the services facilitators provide. For this reason, many consider facilitators to be business people as opposed to child welfare providers.

In intercountry adoption, a facilitator may actually be the person who finds the children for adoption if they are arranging direct adoptions between birth parents and adoptive parents. Or, the facilitator may be the person overseas who contracts with orphanages to place children through the government system, and then also contracts with U.S.-based agencies to provide children for the families working with their program.

What should you look for in choosing an agency?

There are many factors to consider when choosing an agency. You will need a local agency to do your home study. However, many families who adopt either domestically or internationally do not use their home study agency as their placement agency. Some do. If your family values face to face contact, then consider using a full service local agency that also provides domestic placement or intercountry adoption services. However, if you cannot find a local agency that provides the services you desire, don't let distance alone stop you from using an agency that you are comfortable with which is located in another state. In these days of Internet and email connections, most families are quite comfortable working with an agency in any state.

Families find agencies to work with by looking on the Internet, talking to other adoptive families, or calling local adoption agencies. All of these avenues are helpful. A word of caution about using the Internet: It can be quite dangerous to choose your agency by searching through a "photolisting," finding an adorable child (or the promise of one) that you want to adopt, and then automatically signing up with the agency that is placing that child for adoption. Falling in love with the picture of a child may cause you to be less than careful about checking an agency's reputation or credentials, or could cause you to overlook obvious red flags because you don't want to pass up the chance to adopt a particular child. While many reputable agencies use photolistings to place children for adoption,

it is wise to choose an agency (or several agencies) that you are comfortable with first—and only then look at children that your agency has available for adoption. Scammers also have been known to lure unsuspecting parents by posting adorable pictures of children who are not really available for adoption.

When speaking with an agency, be sure to ask as many questions as possible. If you find that the agency doesn't respond to your call or inquiry in a timely manner or doesn't have the time to answer your questions on the first call, then you may want to question whether they will have time to speak with you during the adoption process.

In addition, be wary of agencies that decline to answer specific questions. You should expect straight answers to straight questions. If an agency has nothing to hide, they should not be concerned about giving you the names of their employees, facilitators, or agents. If an agency feels that their fee structure is appropriate and within the normal range of fees, they shouldn't be afraid to reveal it to you on your initial contact. Agencies should also be willing to send you copies of the contracts you will be asked to sign.

You should ask how long the agency has been in business, what the time frame is for the average domestic adoption or for the country you are considering adopting from, how long the agency has been in existence or has had a program in the country you want to adopt from, whether the agency has its own staff overseas or employs facilitators, how the overseas agents find the children available for adoption, and whether the agency has ever been investigated or sanctioned by any government or legal entity. Lists of questions to consider, and red flags to watch out for, are included in upcoming sections on private domestic and intercountry adoption.

There are good, ethical agencies of all sizes. Some families prefer working with large agencies that have multiple staff members for each program and offer a wide variety of services. Others prefer the more personalized service that smaller agencies may offer. Other factors are more important than the size of the staff. Ultimately, each family chooses an agency on the basis of a combination of factors. You will likely find more than one agency that seems reputable and is a good fit for you. When you do, make sure to thoroughly check the reputation of the agency through outside sources. Agencies may give you a list of previous clients, but it should be obvious that they will not give you the names of the clients that they know to be unhappy.

How can you find information about an agency's reputation?

The first thing you should do when considering an agency is to call the state licensing office in each state in which the agency is licensed. Many agencies carry multiple state licenses. It is vital that you call each state. Ask the state licensing office if the agency has a current license, how long it has been licensed, if any complaints, substantiated or unsubstantiated, have been filed against the agency, and if it has ever been sanctioned or disciplined by the licensing office. You can find the numbers for the state licensing offices on the Adopting.org site: <http://www.adopting.org/adoptions/state-licensing-specialists-for-states-a-m.html>

If an agency is not licensed, it is considered a facilitator, and you should carefully consider whether the facilitator has the staff, knowledge, and expertise to arrange adoptions.

The second step is to contact the Better Business Bureau in the area the agency is located in to see if any complaints have been filed. It is also a good idea to do an Internet search on the agency. See if there are any complaints against the agency listed on family pages, pages that contain adoption agency ratings, or in the media. When checking websites that contain agency ratings, it is a good idea to see who runs the agency and if the website is connected to any particular agency, consortium of agencies, or other group that may be less than unbiased.

Third, seek out online email discussion groups for the type of adoption you are considering, or countries you are interested in adopting from. There are groups for domestic adoption and virtually every country. One listing of groups is available at [Yahoo Groups](#). More can be found at [Comeunity.com](#). Ask the group for their experiences, both positive and negative, with a certain agency. It is also extremely important to ask for experiences with the facilitator or overseas staff. Facilitators often work for many different agencies, and hearing from those who worked with the same facilitator, even if with a different agency, can be helpful. In addition, if an international agency has had major problems in any country, not just the one you are interested in, be cautious. Such problems could be the sign of a program that is not well managed. It is possible to have problems with a particular in-country facilitator that would not necessarily be the fault of the agency itself. However, if the agency continues to work with a facilitator after a problematic situation has become known, that should be a red flag.

While it is true that virtually any agency could have a complaint or two that was filed by a disgruntled client, be concerned if you see a pattern. Consider

the severity of the complaint, the number of complaints, and perhaps most importantly, the agency's response when you inquire about the complaint. Some agencies strictly warn against or even contractually forbid posting to Internet chat groups or bulletin boards for references or with experiences. If an agency has nothing to hide, they shouldn't be concerned if you ask questions or tell your story.

Too, some families discount the stories they hear from other clients because they have talked to the agency and feel comfortable with its staff. Agencies may tell families that the other clients were difficult, or that there is no truth to the rumors about their facilitators. All of that may be true, but if there is a lot of smoke, perhaps there is a fire somewhere. Families often spend much more time deciding what kind of car to buy than in deciding whom to use for an adoption. Take the time to choose carefully. Any agency can experience a problem or two, and agencies are sometimes involved in difficult situations through no fault of their own. The true test of an agency is not that they've never been involved in a conflict; it's in how they handled the conflict. If they handled a previous difficult situation well, their previous clients will likely acknowledge that. Every family wants to think well of the agency that brought them their child. When they don't, it should be cause for concern. Ignoring red flags that arise in your search for an agency could be a recipe for disaster. Similarly, if glowing reports from other parents are based only on the fact that their own adoption was successfully completed, dig a little deeper. Sometimes parents will admit that they had serious concerns about an agency's ethics, or even experienced great difficulties, before completing their adoption. Finally, you would be wise to give more weight to difficult stories that are shared for the simple reason that many, if not most, families who have bad experiences do not easily share them—often because they are threatened by the agency. Some estimate that for every bad story, there are likely ten more similar stories that are not told.

Working with Expectant and Biological Families

Open Adoption

In the past, most adoptions were "closed," meaning the adopted person and the adoptive family had no contact with the biological parents. Records were sealed and very little knowledge of the first family or the circumstances surrounding the adoption were revealed.

Today, most experts agree that “open” adoption is better for all parties. It places adoption in a positive light where everyone can speak openly about their unique family situation, and where the free flow of information is encouraged. The reasons that open adoptions are preferable for children will likely be discussed at length in your adoption education classes. A brief overview of the prevailing wisdom on the topic follows.

Open adoption can take many forms. For some families it may mean continual and frequent contact with first families (including mother, father, siblings, grandparents, aunts, uncles, cousins, etc.) The contact could be through pictures, letters, phone calls, visits, and participation in holiday celebrations. For other families, open adoption may simply mean the sharing of pictures and letters. With open adoption, the level of contact should be comfortable for everyone and may evolve as the child grows older or as circumstances change.

Below is an excerpt from Brenda Romanchik, a first mother, describing her understanding of open adoption:

For many who are just beginning the adoption process, the concept of open adoption appears to be another complication they would rather not deal with. One prospective adoptive mom, weary from years of infertility, asked me at an adoption conference, “I am pursuing an international adoption because I don’t want to have to deal with my child’s birth family in any way. What can you say to me that would make me change my mind and pursue, instead, an open adoption?” My answer to her was simply this: “No matter where your child is adopted from, you will, as adoptive parents, need to ‘deal with’ your child’s birth family whether you know the birth family or not. This birth family is a part of who your child is. Open adoption allows you to know your child better by knowing his birth family.”

When you are arranging an open adoption, you will have discussions with first families about how open they want the placement to be. In time, you may come to an agreement about the type and frequency of contact you want. Such agreements are often put into writing. Open adoption agreements should be arranged with the assistance of your attorney and the attorney for the first parents. While particular contact arrangements will vary depending on the parties, there are some key points to remember when considering open adoption and drafting ongoing contact agreements.

- Adoption is a unique family arrangement that requires unique family dynamics. Adoption is not the same as having a biological child, and the most important step you can take is to acknowledge that fact and commit to raising your child in a different way. Perhaps the first step in considering adoption is to ask yourself whether you would be able to do that.
- It's possible that your child's first parents would, under different circumstances, like to raise their child. There may be life circumstances that compel them to consider adoption. Most first families love and care for their children very much. As an adoptive parent you have the responsibility of conveying that message to your child. Knowing the first family through an open adoption may help you answer questions your child has.
- It's important to recognize the experience of the first family and their connection to your child. Most likely you will be adopting a baby. Babies grow up and become teenagers and then adults. Part of that process is creating an identity. When adoptive persons seek information about their first family, it is not a reflection of you or your parenting. Everyone deserves to know where they came from. As a parent you should assist your child in that identity process, rather than fight against it.
- As children grow, they will want to know their heritage as part of their identity. While the first parents may not mean much to you, they will mean a great deal to your child. It is in your child's interest to keep them involved in your child's life and demonstrate your open and warm feelings for them. Your child's relationship to the first family does not diminish his/her relationship to you. On the contrary, an acceptance and welcoming of the first family's involvement will mean a great deal to your child.
- Think of your new family not as a tree, but as a bush. By welcoming your child into your life and your home you are welcoming his/her entire family. While you may not have ongoing contact with all of them, it's important to extend your life and your home to them as well. In that way, the termination of the first family's rights is not the end of the relationship, it is the beginning.

- Maintaining ongoing, meaningful contact with first families will benefit your child and the first family as they come to terms with the circumstances of your child's life. Many first families are interested in knowing that their child is happy and well cared for. Parents do not "get over" their children and move on with their lives. Often, the choice to place a child for adoption is a lifelong struggle. Your child will have some issues to deal with and contact with the first family can help the child and you as you navigate through the process.
- If possible, try to pick a name with the first family so the child doesn't experience loyalty struggles later on in life. In ideal situations there would be substantial contact with the first family before the birth where details of future contact would be outlined. Additionally, consider obtaining a copy of the original birth certificate before the adoption is complete, as most states have laws sealing those records and denying adoptees access to their records.
- Build compassion for the first family. Your ability to have compassion for the first family will translate into an ability to have compassion for your child as she gets older and develops a sense of identity. Despite the circumstances of the adoption, the first family is still your child's biological parents and the people from whom he comes.
- After the child is born, your first family needs to go through the process again of choosing adoption. Feelings change once the child is a living, breathing being. It's important to give the first family space to make a clear decision. There is plenty of time for you to bond with the child. Although it may be extremely difficult, ultimately you want the choice of adoption to be made of the free will of the first parents. To avoid the appearance of coercion, avoid referring to the first parents as "birth parents" or "biological parents" until the adoption is complete.
- Perhaps the most important aspect of open adoption is: **Do not make promises you do not intend to keep.** First families often have no legal avenue for enforcement of open adoption agreements, although more states are making them legally enforceable. The first parents are relying on a belief that you are sincere and honest. Closing the adoption later in the child's life can be detrimental to the first families and the child as feelings of distrust, disappointment, and powerlessness endure for many years. Open adoption may feel uncomfortable at times, but don't

give up! Seek support and remember that your child is more important than your comfort with the situation.

Respecting First Families and Their Right to Choose

As we noted earlier, a fundamental guiding principle in our philosophy is that, whenever it is possible and safe, children should be raised by their biological parent(s). To respect this principle is to acknowledge that there will be situations in which a parent that first considered placing a child for adoption decides later in the process to parent that child. Knowing this reality, and accepting that the parent has the right to parent and that being raised in a safe environment by one's biological parents is in a child's best interests, is one of the keys to having a good relationship with an expectant parent.

When you reach the stage in the adoption process that you start to meet expectant parents, you will want to be prepared for interacting with them, and for ensuring that your approach does not place undue pressure on them to place a child for adoption.

Meeting expectant parents can be an anxiety-filled experience, but if you remember that the goal of the process is to find the best fit for both your family and for the child, it is easier to relax and be yourselves. If the match isn't a good fit, you should feel free to move on. Another situation will come along that might be better for you. Be friendly, open, and honest. Get to know the expectant parents and help them to see who you are as a person, as parents, and as a family. This will help them to make a decision that they can feel good about. Some questions you could ask expectant parents might include:

- What kind of parents are you seeking for your child?
- What kind of life do you want for your child?
- What things in your own childhood would you like to see your child have?
- What is your philosophy on discipline, education, and lifestyle?
- What does your family think of your considering adoption? Are they supportive?
- What do you think about open adoption? What kind of contact sounds comfortable for you?

- Who do you think you'd like to have at the hospital and in the birthing room?
- How do you want to say goodbye to the child, and when?
- What are your fears and concerns?
- If you weren't worried about making us angry or being embarrassed, what question would you ask us?

Letting the expectant parents know that you want them to make the decision that is best for them and for their baby goes a long way toward building a comfortable relationship. Questions such as, "You aren't going to change your mind, are you?" create undue pressure and stress and are better left unsaid. It is important to understand that the expectant parents can, and should, feel free to choose parenting at any point in this process...it is their child, and they must do what is best for the child and for them. Would we expect anything less from any parent?

Considering adoption does not make an expectant parent "less than" any other parent.



You may not always have the opportunity to meet the expectant parents. Sometimes the agency makes the decision about which parents to match with a child, because some expectant parents choose not to be involved in that part of the process. If you are hoping for an open adoption, this may not be the right situation for you. Examine your thoughts on this possibility ahead of time, and decide what you feel most comfortable with. Some parents find this situation especially difficult if they already have a child with an open adoption and are chosen to parent a child whose first parents do not wish to have openness. If openness feels very important to you, then you should pursue another situation that is a

better match for your family.

At times, adopting parents are asked to attend the birth of a child. Be cautious when doing so. Your very presence can cause undue pressure on the placing parents to proceed with the adoption, even if they are having serious doubts, so as not to disappoint you. Talk about those issues with the expectant parent before agreeing to attend the birth. Be willing to forgo attendance if the expectant parents have hesitations. This can be a highly emotional and stressful time and,

while it can also be exciting for adopting parents, erring on the side of caution and respect for the decisions being made by the first parents is always a good decision.

Money, Choice and Coercion

When you are giving consideration to respecting the choices of expectant parents, you must give serious thought to the role that money can play in the adoption process. In the last couple of decades, “birth parent expenses” have become part and parcel of the domestic adoption process. While originally intended to cover an expectant parent’s medical and legal costs, and to ensure that the child received appropriate care before birth, laws about allowable expenses have continued to expand, and some states now allow adopting parents to pay the living expenses of the mother for the entire pregnancy, including clothing, transportation, and even educational expenses. As the categories have expanded, in some states will little oversight, troubling practices have arisen.

Sometimes, payment of expenses is used as a tool to coerce a parent to place a child. Recently a website was made promising luxurious accommodations for expectant parents, including tours of Hollywood and shopping sprees, for pregnant women signing up for the agency’s adoption services. While doing so may attract more expectant parents to the program, one must wonder if it appeals at first but then feels coercive in the end. Other programs promise college scholarships to expectant mothers *if they place* their child, but not if they choose to parent. This practice runs completely contrary to the idea of offering assistance to parents who want to parent their child.

Even while waiting for a child to join their family, most adopting parents would not want an expectant parent to feel coerced or trapped into placing their child. Most would not do so directly, and thus you should be conscious about activities that may do so indirectly. If an expectant mother signs up for a college program with a scholarship, or accepts shopping sprees that are paid for by adoptive parents, will she then feel free to change her mind if parenting is the right choice for her? Keep in mind that the agencies that establish these programs take no risk. They are not paying for the largesse, nor do they have to pay the emotional price if a situation becomes uncomfortable later. Be aware of how these situations can both demean the expectant parent and create issues that your child could question later when he or she is old enough to understand the implications. When situations with expectant parent expenses arise, ask yourself:

- Is there a true need for assistance, or am I being asked to pay for luxuries?
- Are there other forms of help that this expectant mother/family can access?
- Will this mother/family feel as if they owe me a child by my paying these expenses?
- Am I creating a coercive situation, and would I be able to explain this to my child someday?

Birth parent expenses are sometimes needed, and are sometimes extremely important to both the expectant parent and the child. But use caution if you feel like you are being exploited, or if you feel like you are creating a coercive situation for an expectant parent.

Creating Transracial GLBT families

The following article is reprinted with permission of the author. We thank Jae Ran Kim for her willingness to share this material with our readers.

Rainbow Families conference - transracial adoption in the GLBTQ community

By Jae Ran Kim*

LGBTQ families often have to look at alternative ways to become parents and adoption is one of the growing ways that the LGBTQ community chooses to build their families. These days, as with the mainstream population, more and more families are choosing to adopt transracially or transnationally. Often, white LGBTQ parents believe their own experiences of marginalization and discrimination as members of an “outside” group are enough to bridge the issues their children of color might face. However, racism is not the same as heterosexism. White adoptive parents need to understand the differences and challenges in adopting children of color. Drawing from ally models created for the LGBTQ community, this workshop will explore ways in which white LGBTQ parents with adopted children of color can be allies for anti-racist activism.

In the past five to ten years, the numbers of GLBTQ parents adopting children of color have markedly increased. As the community finds itself increasingly restricted from adopting through international adoption programs, domestic private and foster care adoptions increase.

We don't yet have a cohort of adult transracial adoptees who can bring together the perspectives of "queerspawn" (Abigail Garner) and adult transracial adoptees like myself. When this cohort comes of age, we will learn what this group of people experienced being part of two distinct oppressed groups all at the same time.

From a social justice perspective, we find ourselves at an interesting time with the intersections between the rights of gay and lesbian to be parents, the rights of the mothers who birthed their children to be ethically treated, and the rights of the child to be part of his or her ethnic and racial culture of origin. Are white gay and lesbian activists investigating whether their rights to adopt are at the expense of poor women of color? Are they investigating whether their rights to adopt are at the expense of their children's racial and ethnic identities if the parents feel it is insignificant? What about the rights of the child to know who birthed them?

This is not to approach the issue from a framework of pathology or from a deficit point of view, but that parenting isn't just about building a family.

For those who cannot or choose not to have children biologically, they must recognize that their reproductive rights (which include the right to adopt as a way to experience parenting) might be at the expense of another woman's reproductive rights.



Some discussion points follow.

- Transracially adopted children will experience “double consciousness” (W.E.B. DuBois)—transracially adopted children of GLBT parents will experience “triple consciousness.”
- We tend to look at the micro issues around adoption—a child without parents, people who want to become parents by adopting. We don't look as much at larger, broader views.
- Most of the research done on transracial adoption is dominated by white researchers and social workers who are also adoptive parents.
- Most of the research is conducted with transracial adoptees while they are children and teenagers; very few study adoptees

in middle years or past 30, therefore we get only a skewed perspective of how a transracial adoptee identifies racially, culturally and ethnically as an adult.

- There are no studies about transracial adoption and GLBTQ families.
- Transracial and transnational adoption would not exist without poor women of color with no resources.
- We are buying into this social pressure to define a family through a set of normative “frames” which only serves to reinforce those who don’t fit in those norms. Instead of trying to be “normal,” why don’t we encourage society to embrace differences?
- In the GLBTQ community, there has been dissent among queer people of color—also in feminism, which was largely driven by middle to upper class white women. We still fight to have women of color taken seriously in other social justice issues.
- GLBTQ parents feel their experiences with heterosexism enable them to relate better than straight white parents to transracially adopted children, but there are no studies yet to support it. According to Pauline Park, a transgendered Korean American adult adoptee, “No matter how empathetic and sincere, most white GLBT people lack the direct personal experiences of racism. While there are significant parallels between the experience of racism and that of homophobia . . . there are also significant differences and oppressions are not . . . interchangeable.”

Some of the most common mistakes I see white adoptive parents doing:

- Engaging in “drive by culture”—sending the kids places where they interact with their community but not participating in the community with them
- “Cultural tourism”—tacos on Tuesdays or egg rolls on Wednesday. It’s the kind of culture you can buy like art, folk costumes, food or celebrating folk festivals/holidays, but there is no real interaction with the child’s adult community and no role models for them to envision themselves as adults

- Placing a child's racial identity as a low priority over other identities (religious, familial "we're the Smiths," GLBT family, "American," the adoptive parent's white European ethnic identity "we're Norwegians")
- Dismissing racism when the child begins to experience it. Often done by statements like, "we all get teased for something." This could potentially be dangerous because it teaches your child not to trust their gut and could put them in dangerous situations
- Expecting your child to handle issues the way you would (I just ignored the teasing, why can't you?)
- Trumping the family's queer identity (in GLBT families) over a multiracial identity

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With these key issues in mind, you are equipped to consider which type of private adoption placement is right for you.

The Domestic Private Adoption Process

Once you choose to pursue a private domestic adoption, you have several choices. You can adopt through a full-service private agency, you could use an attorney, or you could adopt independently, perhaps using a facilitator or matching service. It's important to note that in some cases, several of these methods will be combined. In order to describe the private domestic process, we will first discuss the steps in a private agency adoption, where all the services are provided in one place. Then we will briefly discuss how the situation would/could be different using an attorney or a facilitator.

Private Agency Adoption

Private agency adoption is likely the most common form of domestic adoption. When someone pictures adoption, before they understand all the possible variations, this is most often what they envision. Agency adoption is often also the "safest" choice with respect to risk and emotional investment compared to other available services or methods.

Domestic agency adoption means adopting a child through a licensed full-service adoption agency. The agency handles all the steps of the adoption process including pre-adoption education, the home study, matching the child and family, pre-adoption counseling, paperwork compilation, birth parent consent, finalization of the adoption and post placement visits.

The first step in this process is choosing an agency. If you haven't yet read the previous section on choosing an agency, you should do so now. Be aware that you can find agencies in the phone book in most cities. However, the fact that an agency is listed in the Yellow Pages in your town is not a guarantee that they actually have offices in your city. Often agencies from all over the United States will advertise in various cities and use toll free phone numbers to reach prospective placing and adopting families. You may have to call several agencies before finding a local agency that can do your home study and provide full adoption services.

Special considerations for GLBT families: It is important for you to determine which agencies are willing to work with GLBT families. Getting recommendations from other GLBT families is often the easiest way to find a good agency. You can also simply call them all and ask them about their programs and their willingness

to work with non-traditional families. You can tell a lot about an agency by the staff's initial reactions to your questions. Sometimes the agency's website will give you an idea of its stand on this issue as well. While these can be difficult phone calls to make, they will not be nearly as difficult as working with an agency that doesn't respect your family.

Some questions to ask an agency might include:

- Have you worked with gay and lesbian families before?
- How successful have you been in matching children with those families?
- Do you have staff trained in diversity issues so as to better assist our family? Do you *encourage* placement into alternative families?
- Do you have references from other GLBT families you have assisted?



After you find an agency, you will need to complete an application. There is often an application fee involved, and the application will request basic information about your family, the type of child and adoption you are hoping for, family finances, and your living arrangements, among other things.

You will also likely be asked to sign the agency contract or agreement. Read this document carefully. You need to understand what your rights and duties are in the process, what the duties and responsibilities of the agency are, and how things like information, support and money will be handled. You may wish to have an attorney review the contract to determine if the contract is in your best interest. Some agencies have clauses in their contracts that are essentially “gag orders.” If you are not allowed to discuss your agency experience with anyone, then others are not allowed to discuss it with you, and you may be frustrated in your attempts to obtain information about the agency from other parents. This should be a red flag for you. For detailed lists of questions to ask an agency, and red flags to watch out for, please see the international chapter. Some of the questions in those lists apply only to international adoption, but many will also be useful for questioning domestic agencies.

Pay particular attention to fees and how they are paid. If an agency requires that all fees are paid up front, be cautious. How hard will they work for you if they have all your money already? Will they work diligently to match you with a child? Is there a limit to the amount of time you can be on their list for matching before paying more fees? If you place all your money in their program, and do not get the results you are hoping for, what recourse do you have? Can you leave their program and get some of your money back? Ask lots of questions before handing over your life savings.

The next step, after you've chosen an agency, is to have a home study completed. The home study includes interviews with all adult members of the prospective parents' household, including any adult children; a home visit during which your home will be checked for appropriate and safe living conditions for a new child; questions about your ability to care for a child with special needs, and questions about your financial health, physical health, and mental and emotional health, including the dynamics of your family relationships. You will be asked about your educational background, religious background, and your beliefs about parenting and child-rearing. The home study includes background checks for all adult members of the prospective parents' household.

The first step in the domestic home study is generally for the adopting parents to write a short biography that discusses their childhood, family, and views on parenting, among other things. The actual home study usually includes a series of meetings with the social worker from the agency. If you are a couple, you will generally be interviewed together and then separately, and then the social worker will make a visit to your home. The intent of the home study is to give the social worker insight on the makeup of your family, your parenting styles, and your preparedness for parenting and adoption issues. You may be asked to complete additional tasks if the social worker feels there are issues that need to be addressed. The agency will assess your home to be sure it is safe, and that there is sufficient room for a child. This is not a white-glove test, and remodeling your house is completely unnecessary.

Some states might have additional requirements. In Arizona, for example, once you are approved by the agency, you must be certified to adopt by a judge. The agency sends your home study to the courts and the judge will certify you to adopt in Arizona. This process can take anywhere from two to twelve weeks after the home study is submitted to the court.

While waiting for your approval or certification, you will begin to create a “profile” of your family. In most domestic adoptions the expectant parent(s) chooses the adoptive family, and the profile gives expectant parents the information they need to decide if you are the right family for their child. You will want to show your personalities, and paint a picture of what life in your home will be like. Do you like to camp? Play sports? Go to the theater? Garden? Include that! Do you have a large extended family or tons of nieces and nephews? Do you love dogs, hate spinach, or love to travel? Tell the story of what makes you unique. The point of this step is to show you as you really are. You never know what will attract an expectant parent to your profile, so try to be yourself and try not to compete with other parent profiles. The goal is to inform, not to win, and if you are authentic, that type of attitude will shine through.

Once you are certified and you have presented your profile to the agency, you will begin the hardest part of the adoption process—waiting. Time will seem to crawl, and it is not unusual to become obsessed with the process. Try to avoid centering your life on it. Fill your time with all the things you will not be able to do once you become parents to a newborn: movies, dinner with friends, sleeping late on Sunday mornings, or for that matter sleeping at all! You will miss these days no matter how much you long for a child, so enjoy them while they last.

When you get a call to meet a parent, you will be thrilled—and nervous. Take the time to review the information above on interacting with expectant parents. Then try to relax. The first parent you meet might not be the match for you, but in time the right match will come along. Try to roll with the process as best you can. It can be frightening, but in the end people do usually end up adopting if they have patience.

If you are chosen by an expectant parent, rejoice, but do so with a bit a caution. Nothing is final until the adoption is finalized. Be patient, you will get there.

Consent laws vary from state to state. Most states dictate that once the child is born, a certain amount of time must pass before consent to adoption (also known as “relinquishment papers”) can be signed. In Arizona, for example, it is 72 hours. This does not mean the papers must be signed at 72 hours, only that they cannot be signed before 72 hours have passed. Again, it is best to give the parents of the child time and space to make this important decision. This will be one of the most important decisions they will ever make. Allow them the opportunity to say hello to their child, and welcome him or her into the world, before they say goodbye. Give them the space to be certain of their decision to place their child for

adoption. And if they choose not to place, give them your blessing. This is their child until it is not anymore. There will be other children for you in your journey if this one, in the end, does not become yours, so respect the process for them.

States also differ on whether or not relinquishments are revocable—that is, whether the first parents can change their mind after the papers have been signed. In some states, including Arizona, they are irrevocable unless the birth parents can prove coercion or duress. In most states, there is a period of time to allow the parent to change their decision, ranging from 72 hours to 30 days or more. Only you can decide if you want to accept a “legal risk” placement—placement of a child into your home before the revocation period has passed. Discuss this with your agency.

Some parents choose to have a ceremonial goodbye where the child is entrusted to the adoptive parents. This type of ceremony will probably be planned before the birth and can be a very touching event for everyone. It is best, no matter what the process is, to allow the placing parents to decide what they want to do, how they want to say goodbye, and who they want to facilitate the process. Understand that decisions made before the birth about how to handle this and other things may change when the time comes. Let the placing parents decide how to handle things.

If your adoption crosses state lines, you must go through the Interstate Compact on the Placement of Children (ICPC) process. This process requires that both states involved (the state where the child is born and the state where the adoptive parents live) review the paperwork and approve the adoption. One state’s laws will prevail, but both states have the opportunity to review all pertinent data and approve the adoption before you bring the child home to your state. The timing of this process varies, and can be as little as two days and as long as two weeks. If you are involved in a situation that is subject to ICPC, find out in advance who will handle the ICPC paperwork. If you are working with an agency, it will likely handle the paperwork for you. Ask the agency staff how long it generally takes, who is involved, what you can do to prepare for that time, and if there are any additional documents or steps you need to go through in order to comply with the requirements.

If all goes according to plan, you can bring your new baby home. ENJOY! The real fun begins now. We’ll let the parenting books help you out through that part of your journey!

After placement, you will need to complete post placement visits and reports. Most agencies require three post placement visits to see how your family is adjusting, to make sure the baby is doing well, and to be certain that the placement is a good fit for everyone, especially the child. Generally these will take place over the first six months of the placement. Reports will be written and kept in your file, and will be presented to the judge at the finalization of your adoption.

Even with an agency adoption, you may be required to hire an attorney to handle the finalization paperwork with the court. This process makes the adoption legal and registers you as the adoptive parent(s) of this child. This step generally includes the placement being approved by the agency and by the state, and the creation of a legal record. Then, a birth certificate showing you as the parent(s) will be produced. In Arizona, only one person in a same-sex couple will be listed as the parent of the child, but other states allow both parents to be listed.

Attorney Adoption

Adopting through an attorney without the use of an agency is possible in some states. Attorneys perform a number of services and this is the most important thing to understand when considering using an attorney in lieu of an agency. Some attorneys will handle an entire adoption, just as a full service agency will do. For this reason, not every “attorney adoption” is an independent adoption.

Some attorneys, however, only finalize adoptions, meaning they do the final paperwork to record the adoption with the courts. Some attorneys will assist you in finding an adoption situation, and may even become involved in working with the expectant parents throughout the process.

Other attorneys will handle the potential legal questions, payment of expenses to the placing parents (if necessary), and the finalization, but will not assist you in finding the situation or in working with the placing couple.

If you are the type of person who needs a professional to take care of the details, and don't feel comfortable doing the work or handling the interaction with the expectant parents alone, then you might want to use an agency. If you are the type of person who can advertise your profile, search for available situations, interview potential expectant parents, make arrangements, and handle requests for meetings, expenses, and information without a middle person, then having an attorney do only the legal work might be a great opportunity for you.

Be sure to understand exactly what an attorney expects you to do, and what you should expect of him or her. Understanding this up front allows you to choose the method of adopting that works best for you, and avoids potential disappointment and wasted time.

Some questions to ask:

- Do you assist us with advertising and locating a potential adoption situation?
- In what ways do you do so? Do you:
 - o Have referral sources?
 - o Place advertising?
 - o Place Internet advertising?
 - o Advise us on our own advertising?



- Do you assist us in speaking with parents who are considering placement?
- Do you assist us in handling expectant parent expenses if we choose to pay them and there is a need for them?
- How many adoptions have you handled with this level of service?
- Have you handled out of state situations?
- Have you been through the ICPC process?
- What are the fees for your services?
- When do those fees need to be paid?

- How do you handle the fees/expenses if a situation falls through?
- How accessible are you when we have questions or need to speak to you?
- Can you provide me with references to other families you've helped?

Independent Adoption

Finding an adoption situation on your own is often believed to be less expensive, and to give the adopting parents more control over the situation. This may be true in some instances, but independent adoption comes with its own struggles and frustrations.

You will still need a home study to approve you as adoptive parents. Some parents wait until they find an available child to get the home study. This limits what situations you can pursue, as you cannot accept a child into your home for the purpose of adoption without a home study. If a parent is expecting a child in a few weeks, and you cannot complete a home study for four months, you will be unable to adopt that child. Therefore, it is best to do your home study first.

Once your home study is complete, you can begin your search for an adoptive situation. Many parents advertise in local or college newspapers. Some have business cards created that say "We want to adopt" with a toll free number that they send out with their bills and their Christmas cards. Some parents begin a campaign to tell everyone they know of their desire to adopt a child, the thought being that someone knows someone somewhere who is considering adoption. These days, many families post their profiles on the Internet. Sometimes these efforts pay off. Assess your own personalities to determine if you want your personal information shared with everyone you come in contact with. Do you want to open up opportunities for people to ask questions, some of which may be very personal and invasive? If this is the route you wish to take, first find out if advertising your desire to adopt is legal in the state in which you live. Check with an attorney to verify the law. Then, create a budget and stick to it. Always telling yourself you can do just "one more ad" can get expensive.

Before you begin advertising, write down questions you want to ask potential callers:

- How did you hear about me?
- How far along are you in the pregnancy?
- Why are you considering adoption?
- What can I tell you about my family?
- Would you like to meet?
- Would you mind contacting my attorney (if you have one)?

Set up a dedicated phone line to accept adoption calls so that you don't have to post your home phone number. When you receive a call, remember that not everyone who calls you will be someone who legitimately wishes to place a child for adoption. Devise methods to verify the information you receive. One of the best ways to do this is to refer the caller to an attorney. The attorney can then ask for things such as proof of pregnancy, and verification of the caller's identity.

There have been instances where people who are not pregnant trick adopting parents into believing they intend to place a child for adoption, accept payment for medical and living expenses and then disappear before the supposed due date. In other cases, an expectant parent might collect "expenses" from more than one adopting family. Be careful, and take steps to protect yourself.

Make a decision early on about what you are willing and able to pay in expenses and stick to it. If possible, encourage the expectant parent to meet with a professional adoption counselor and let the professionals determine the parent's true financial needs. Try to encourage the woman or couple to avail themselves of all available social service assistance.

If you have referred the caller to your attorney for more discussion, the next step should be to get to know the woman or couple a bit more, and more importantly, let them get to know you. Arrange with your attorney to have your parent profile sent to them. Take this part of the process slowly, allowing everyone the time to get to know one another. See the section above on questions you can ask the expectant parents, and see if the situation feels right for you.

If doing all this feels like too much, but you don't want to use a full service agency, you might consider using a facilitator to find possible situations (keep in mind that some full-service agencies will also complete an adoption for you if you

find a match elsewhere, so using an agency does not necessarily rule out the use of a match service). If you consider doing so, you should be a savvy consumer.

Using Facilitator/Match Services

There are many people and organizations willing to help you find a child to adopt. The key to understanding this process is to understand:

- What kind of experience they have
- What they offer as part of their services
- What licensing and education they have
- What methods they use to find situations
- What their success rate is
- What guarantees and/or terms they offer
- What happens if no situation is found.

Generally, a facilitator or match service is not licensed or regulated by any authority. There are some exceptions to that rule. For example, California licenses facilitators but holds limited authority over their activities. Some states ban facilitators from working there at all.

When using one of these services, you generally pay a lump sum in advance to be matched with an expectant mother/couple. Sometimes what you get in exchange is, quite literally, just a name and phone number. Once matched, you are often on your own to arrange for the paperwork, legal work, and counseling. Often there is no oversight from the service once you are matched, and you are left to deal with the payment of expenses, arrangement of the birth plan, and so forth, on your own. If you have the support of an agency, attorney, or other professionals, this may be fine. It is important to realize that the money you have paid to this service is simply for the match and nothing else. Read the contract carefully. Be aware of what they have actually promised to do, what happens to your money if they do not match you in a certain amount of time, and what happens to your money if the placement falls through.

Talk to others who have used the facilitating service, and see what type of track record it has. Is your money kept in escrow? What happens in the event the

facilitator's business closes down before you are matched? Often facilitators have intricate websites showing available situations. It is important to know how up-to-date these situations are, and how much control the facilitator has over the situation. Sadly, some families pay a fee, only to find out that the facilitator is advertising situations that are being handled by yet another facilitator who also wants a fee.

Most of the time, facilitators are posting situations that agencies and attorneys have been unable to find a match for through their own contacts. In this instance, it is important to look at why the matching process has taken so long. Are there health issues with the expectant parent or child? Are the fees excessively high? Are the parents requiring (or asking) for reimbursement of a very high number of expenses?

There have been cases where a family has been matched through their attorney or agency and, while waiting for the birth and placement, have seen their matched situation posted on a facilitator's site. It is thus important to ask the last time the facilitator has spoken to their contact on a certain situation before you pay a fee. If they are not in close contact with the originator of the situation, you may enter into an agreement with the match service only to find out that the situation you were drawn to is already matched through the originating agency or attorney. Generally your only recourse, then, is to leave your money with the facilitators while they continue to work with you until you are matched. The problem with this scenario is they have your money and you may never find another match with that facilitator.

Special considerations for GLBT families: Often, facilitators will work with a broader spectrum of families, but charge a higher price for situations that are "gay friendly." This could put you into a situation where you feel you must pay these higher fees or you will not get matched. Be cautious about signing up with a facilitator who would exploit your family status.

Finally, regardless of which avenue you use to pursue an independent adoption, you will still need an attorney to finalize the adoption paperwork in your state, and possibly to coordinate the paperwork with another state, if two states end up being involved. Find an attorney and discuss what services they can offer, and for what price. Can they help you field questions about potential situations, or verify information about the expectant parents?

Completing an adoption independently can be a daunting task, but families do it successfully all the time. If you are willing to put in the work and to be a savvy consumer, this option could work well for your family.

Guardianships

A guardianship is not an adoption. Guardianships can, however, be useful in creating familial relationships where the legal parents of the child are unsure if they want to permanently release their child for adoption. Guardianship can be used in other situations, too, where the legal parents cannot or choose not to parent, but wish to keep a legal connection to the child. In a guardianship situation, the legal parents may retain certain rights while relinquishing others. The legal agreement may provide for permanent guardianship or temporary or revocable guardianship.

The benefits of a guardianship to the original parents are clear. A guardianship:

- Allows more time to make a permanent adoption decision
- Allows the parents to maintain some legal rights to their child
- Allows the parents to maintain some level of a physical relationship with their child
- Allows the parents to retain the child's name and identity.

The advantages to the child (while admittedly somewhat debatable) are that it:

- Allows retention of the original name and identity, including access to the original birth certificate
- Allows the child to retain a relationship with the original parents.

The guardians may also have some advantages, although we recognize that these, too, are debatable. A guardianship:

- Allows a parenting relationship to develop without requiring an adoption
- Allows guardians/parents to become involved in a child's life even if full adoption is not an option.

There are circumstances when a guardianship can be a useful and positive experience for all involved, and we urge parents to carefully research the options involved. Give careful consideration to the pros and cons, with the assistance of an attorney and with an open mind. Knowledge is the key to this type of parenting arrangement.

Intercountry Adoption

Embarking on the process to adopt a child internationally is not for the faint of heart, but some families choose it because they perceive it to be a more orderly process than private domestic adoption. Instead of waiting to be chosen by an expectant parent, families adopting internationally typically receive a referral on a first come, first served basis. But be aware that international adoption is full of uncertainty and unknowns—from constantly changing wait times, to the facts about the child's background, to changes in the rules that may apply to your adoption. This is why choosing to adopt internationally is often referred to as taking a huge leap of faith. You must be a savvy adoption consumer when you undertake an intercountry adoption.

The areas in which most families encounter problems surround three main issues: money, unethical practitioners, and child trafficking/sale of children. Being aware of these potential problems will help you craft probing, extensive questions to ask your prospective agency and other families who have worked with the agency.

It's often said that money makes the world go around, and it certainly plays an outsized role in international adoption. As adoption agencies employ people in other countries, many will attempt to distance themselves from all aspects of the foreign agent's work, including taking responsibility for the expenditure of funds. Therefore, you may find yourself working with an agency that considers the overseas portion of your adoption to be a completely separate transaction from your dealings with the agency itself, even when you pay your fee in one lump sum to the agency. Thus, your contract may state that the agency has no control over expenditures and refunds from the overseas portion of your adoption. This can be particularly problematic when you are required to pay the fee, in full, up front. You must carefully read your contract to understand where your money will go and who is responsible for it.

Money also plays a key role in the problem of unethical adoption service providers and child trafficking. The monies made in intercountry adoption, particularly in the often poor countries in which agencies hire facilitators or agents, may give people a huge incentive to “find” children for adoption at any cost. Ethical agencies will have strict control over the activities of their foreign agents; have checks and balances in place to assure you, and themselves, that the children being offered are truly orphans in need of a home; and will engage in activities meant to preserve families of origin when possible. Ask a lot of questions about these things. Make sure that you also carefully research the reputation of the overseas agent or facilitator that your agency uses. If the person had problems with another agency, they will likely have problems with yours, too. You can never be too careful when choosing to entrust your family to those who promise to help you fulfill your dreams.

An important note: Your child must meet the definition of an “orphan” under the United States Immigration and Nationality Act. The determination that your child is in fact an orphan is a key part of the adoption process. (Note that the child’s parents do not necessarily have to be deceased for the child to legally qualify as an “orphan.”) The orphan investigation, which is undertaken by U.S. federal authorities, is a protection for the child, the original family, and the prospective adoptive family. While some adoptive families find the investigation burdensome, particularly if it is lengthy, the investigation is the only protection you have in determining that your child was not abducted, bought, or otherwise trafficked. If prolonged orphan investigations are occurring in a country that you are considering adopting from, think twice. Investigations mount once irregularities have been discovered in the adoption process. In some cases, those irregularities might be confined to a particular person or agency. However, if they begin occurring in adoptions of several agencies that are seemingly unconnected, this could be a sign that the fundamental adoption process in that country is too weak to protect children and parents. As difficult as investigations are, they pale in comparison to the lifetime of hurt you and your child could experience if you are the victim of unscrupulous people who traffic in children.

Facts You should Know Before You Begin

The Hague Adoption Convention is an international treaty governing international adoption practices. Not all countries are party to the Hague Convention. The Hague Convention came into effect in the United States in 2008. It is a cooperative agreement on child protection and adoption. It is designed to encourage countries to work together to set standards which protect against

abduction and the sale of, or traffic in, children, and to establish procedures for intercountry adoption. The treaty requires that adoption service providers (both agencies and attorneys) be accredited or approved by a central authority in their country before they can perform Convention adoptions. For the United States, the Department of State is the central authority. The Council on Accreditation and the state of Colorado are currently the only two entities that perform accreditation of agencies and individuals. Individual U.S. states may also apply to accredit agencies and persons in their state. Adoptions between the U.S. and Hague countries are very different than adoptions between the U.S. and countries which are not party to the Convention.

There are two federal agencies directly involved with adoption: the United States Citizenship and Immigration Service (USCIS) and the Department of State (DOS). USCIS will process the paperwork that approves you as an adoptive parent and that verifies that the child is an orphan who qualifies for a visa.

The Department of State issues the immigrant visa to your child, and in some countries assists USCIS in doing the orphan investigation. If you are doing a Hague adoption, the Department of State will perform several additional steps, as the Central Authority for the United States. In addition, DOS maintains a complaint registry for adoption agencies in connection with the Convention.



The Intercountry Adoption Process

Adoptive parents start the international adoption process in different places: some do the home study first and then explore countries; others pick a country and an agency before embarking on their home study. There is no single “right way” to start an international adoption. We will describe the process in this order:

- Choosing a Country
- Choosing an Agency
- The Home Study Process
- Compiling a Dossier
- Child Referral
- Travel

Choosing a Country

One of the first steps is selecting a country from which to adopt. Most prospective parents select a country based on personal ties or affinity to the country, or because of the country’s particular adoption requirements. You should not underestimate the importance of this choice, as a child’s heritage will be an integral, lifelong part of the adoptive family.

Many countries specifically bar GLBT families from adopting. Some remain silent on the issue. Some countries allow only married couples to adopt, while other countries allow single people to do so. It is important to know what a country’s stipulations are, and how your home study agency and/or placing agency will define your family. In most states in the United States, GLBT relationships are given no legal status, and thus a family is defined as being headed by two single people.

A useful reference for researching a country’s adoption eligibility requirements is the Department of State’s international adoption website:

<http://adoption.state.gov/countryinformation.html>

The adoption process is different for Hague countries than it is for countries that are not part of the Hague Convention. Therefore, you must know whether the country you wish to adopt from is party to the Convention. Countries that are party to the Hague Convention can be found here:

<http://adoption.state.gov/hague/overview/countries.html>

Choosing an Agency

Because intercountry adoptions are complex, most adoptive families work with an adoption agency. Adopting parents typically use two agencies: a local agency to complete the home study, and another agency, which could be located anywhere in the United States, that has an international adoption program which will refer the child. This second agency is typically referred to as “the placing agency.” If your home study agency also has an international adoption program, you may have to use only one agency.

Choosing a qualified adoption service provider is a very important part of the adoption process. In all cases you should:

- Understand what kind of adoption service provider(s) are needed for the country you wish to adopt from
- Determine which agencies have successfully placed children with GLBT families
- Do thorough research on each agency you consider using
- Interview several prospective agencies, and ask probing questions
- Watch for red flags that arise during the interview or during the adoption process.

Hague Convention Adoptions

If you intend to adopt from a country party to the Hague Adoption Convention, you will need to select an adoption service provider that has been accredited or approved by one of the two accrediting entities designated by the Department of State: the Council on Accreditation or the State of Colorado Department of Human Services. A full list of agencies that have been accredited can be found here:

<http://adoption.state.gov/hague/accreditation/agencies.html>

The list of agencies that have been denied accreditation because they failed to meet the Hague adoption standards can be found here:

<http://www.adoption.state.gov/hague/accreditation/deniedagencies.html>

If you adopt from a Convention country, one of your agencies must be designated as the primary provider of the following six adoption services:

1. Identifying a child for adoption and arranging an adoption
2. Securing the necessary consent to termination of parental rights and to adoption
3. Performing a home study and reporting on prospective adoptive parents or a background study and report on a child
4. Making non-judicial determinations of a child's best interests and of the appropriateness of an adoptive placement
5. Monitoring a case after a child has been placed with prospective adoptive parents until final adoption
6. Assuming custody of a child and providing childcare or any other social service, when necessary, because of a disruption pending alternative placement.

Being a "primary provider" does not necessarily mean that the agency performs all six services itself. Another agency may perform one or more of the services. If they do, the second agency will be designated as a "supervised provider." If your home study agency only does a home study, and nothing else, the agency may be exempted from being a supervised provider. However, most home study agencies also monitor a case after placement or perform other services and thus become supervised providers. Generally speaking, the placing agency is the primary provider in a Hague adoption. The designation of a "primary provider" is one of the protections for adopting parents that is central to the Hague Convention. With this designation, one agency is responsible to you if things don't go as planned. In non-Convention cases, trying to hold someone, anyone, responsible for the placement of a child, refunds, or even answers, can be impossible.

Non-Convention Country Adoptions

If you intend to adopt from a non-Convention country, your home study agency and placing agency do not have to be accredited. However, using a Hague-accredited adoption service provider offers additional protections. Along with abiding by the laws of the states in which they practice, Hague-accredited agencies must show additional levels of compliance in accordance with Convention standards.

- Contracts must be available on first contact.
- Fees must be disclosed and itemized.
- Supervised providers must be identified.
- Personnel must undergo mandatory training.
- Education must be provided to families.
- The agency must have sound financial management practices.
- The agency must document client services.
- The agency must have solid nonprofit business practices.
- Procedures must be documented.
- The agency must demonstrate ethical international adoption practices.

Additionally, in the event you have to file a complaint against an adoption service provider, the Convention provides for a clear and easy method to do so, and requires the accrediting entity to investigate each complaint.

Non-accredited adoption service providers must abide only by the laws and requirements of the state in which they practice. Many states have weak or nonexistent laws to protect families when it comes to international adoption. Indeed, in non-Convention countries, some “adoption agencies” may not be licensed at all by any state! If you choose to work with non-accredited providers, be prepared to put additional effort into researching the ethical integrity of the service providers you are considering working with.

Note that in some cases, adopting parents may be encouraged to use three agencies—their home study agency, a United States based agency that claims to have a program in a foreign country but actually is a supervised provider of a third agency that is the primary provider. There is little reason for any parent to use three agencies. While some might argue that the middle agency is really good at parental contact or some other service, ask yourself whether any extra fees are worth the additional services. Moreover, adding another layer of agency into the mix may cause confusion about who is responsible—particularly if something goes wrong.

If you adopt from a non-Convention country, the services provided by your agency may vary from case to case. You may work closely with an agency each step of the way, or you may do much of the work yourselves. You and your agency should agree, in writing, on what services the agency will provide, and how much you will be charged for those services. You should have an attorney review any contract you sign with a non-accredited agency.

Independent Intercountry Adoptions

Some families seek to save money by completing an “independent adoption.” However, we strongly recommend that you work with a reputable adoption service provider in a non-Convention adoption case, and that you retain an accredited adoption service provider in a Convention adoption case. There are many critical social work tasks and other functions that must be completed in a professional manner for an intercountry adoption to go smoothly. In addition, some U.S. states and foreign countries prohibit independent adoptions.

In Convention adoption cases, avoid unaccredited adoption service providers who claim that they can help your family complete an “independent adoption.” It is a criminal offense for an adoption service provider to provide any of the six adoption services in a Convention adoption case without being accredited, approved, supervised, or considered exempt. This prohibition applies even if the un-accredited adoption service provider alleges that it only sought to “assist” a family completing an “independent adoption” by providing only some adoption services. The Department of State encourages prospective adoptive parent(s) to report any adoption service providers who are offering adoption services between the United States and another Convention country without being accredited.

Overseas Agents & Facilitators

The licensing of agents and facilitators overseas is done according to the law of the foreign country. Not all foreign governments require that agents and facilitators be licensed, or have the will or resources to investigate complaints or prosecute illegal activities. As a result, it can be difficult to hold facilitators accountable for fraud, malfeasance, or other bad practices.

If you are adopting from a Convention country, local agents and facilitators must operate under the supervision of a “primary provider.” Question your accredited adoption service provider about the qualifications and experience of any facilitators that it might use in a Convention country, and the degree to which the agency assumes responsibility for the actions of its agents or facilitators. You are strongly encouraged not to use an agency that does not have a “supervised provider” agreement with its overseas facilitators or agents.

Resources for Researching Adoption Agencies

As the information above makes clear, choosing a qualified adoption service provider is a very important part of the adoption process. It is important to do your homework before selecting an agency.

Families often begin their research through conversations with other adoptive families who have completed the process. Word of mouth is a valuable resource for finding an ethical adoption service provider. Asking specific questions will often reveal a great deal more information about another family’s experience than more open ended questions would. Other parents are often quick to share their positive experiences, but are sometimes more reluctant to talk about struggles or concerns they experienced during their intercountry adoption. Make sure you do the following:

- Call the state licensing office for each state in which an agency is licensed. Many agencies carry multiple state licenses. It is vital that you call each state. Ask the state licensing office if the agency has a current license, how long they have been licensed, if any complaints have been filed against them (even if the complaint didn’t result in a sanction) and if they have ever been sanctioned or disciplined by the licensing office. You can find the numbers for the state licensing offices on the National Adoption Information Clearinghouse Website: <http://www.icfi.com/default.asp>.

- Contact the Better Business Bureau to see if they have had complaints about any adoption service provider you are considering.
- Consider choosing from the list of Hague accredited agencies, even if you are planning to adopt from a non-Convention country.
- Continually check the list of agencies that have been denied accreditation, even if you are planning to adopt from a non-Convention country. Be concerned if a denied agency uses the same facilitator or agent that your agency does.
- Use the Internet to its fullest. Email lists, message boards, websites, blogs and social media are all great resources for researching individual agencies and agency experiences.
- Interview more than one agency and make a “head-smart” decision—don’t sign up with any agency simply because you think the person you are talking to is the nicest.

Questions for Previous Clients

Whether you are having a casual conversation with a friend who recently completed an international adoption or are interviewing a family from an agency’s reference list, knowing the right questions to ask can help shed light on a family’s agency experience. You should specifically ask other GLBT families how the agency handled their family dynamics, and if the staff truly advocated for the family. Then ask:

- Did the agency make any promises to you that it could not deliver on?
- How accurate was the agency’s originally stated timeline?
- How accurate were the agency’s stated fees?
- Were you required to sign a gag clause at any point before or after contracting with your agency for services?
- How much contact did you have with your agency during your wait? Who primarily initiated that contact?

- How much medical information and history were provided with your referral? Do you feel the information was reasonably accurate?
- How often were you updated on your referral status during your wait to travel?
- Were you encouraged to bring extra cash for “gifts” when you traveled?
- How much support did you get when you traveled?
- Can you share the names of the facilitators, in-country staff or volunteers that you worked with while traveling to adopt your child, and if not, why not?
- If you had any difficulties while traveling or during your adoption experience, how did your agency respond to those difficulties?
- Now that you have adopted your child, was there anything about your child or the child’s situation that you feel the agency should have more thoroughly prepared you for?
- How has the agency supported you since you returned home?
- What could your agency do better?

Once you have gathered the names of some agencies from friends or others, it’s time to start interviewing agencies.

Questions to Ask an Agency Before You Sign the Contract

An interview with an adoption service provider is a great opportunity to gather information. You must do this before making a final decision and signing a contract for services. Be cautious about picking a child first, and blindly going with an agency without doing your homework—too many parents have been burned while doing so! It’s a good idea to interview several different service providers before making a final decision.

Some helpful questions to ask about the agency itself:

- How long has the agency been licensed?

- Has the agency ever been *investigated* (even if not disciplined) or sanctioned by a governmental or legal entity?
- In which professional groups does the agency hold membership?
- Does the agency employ professional social workers with prior experience in adoption? What are the qualifications of those individuals?
- What sort of post-adoptive services does the agency provide?
- Does the agency have a list of family references to share?
- What is the agency's rate of adoption disruption (adoptions that fail)?
- How does the agency handle a potential adoption disruption?
- What is the agency's refund policy, and how are fees returned at various stages during the adoption process?
- How are adoption fees used, particularly overseas? Can I get a detailed breakdown of where the money goes?

Some helpful questions to ask about a specific program:

- What can the agency share about the history of adoption in the country you are considering?
- Are there any ethical concerns about adoption from this country at this time?
- Are there any anticipated changes to the country program in the foreseeable future?
- How long has the agency worked in this country, and how many adoptions has the agency completed?
- How many adoptions were unable to be completed for this agency in this country? Did every adopted child get a visa from the U.S. Embassy? If not, why not?
- What is the agency's anticipated wait time for this program?

- Does the agency have additional criteria that parents must meet beyond the criteria set by the sending country? If so, what are those criteria and why does the agency feel they are important?
- What kind of humanitarian aid projects has the agency completed in this country? Does the agency have a multifaceted approach to child welfare, engaging in family reunification efforts, humanitarian aid, domestic adoption, and international adoption?
- Does the agency have its own staff overseas, or does it employ facilitators or consultants?
- Does the agency rely on any volunteer staff overseas? If so, is it willing to disclose the names of those volunteers?
- How do the overseas agents find the children available for adoption?
- Has someone in the office visited the orphanages that the agency works with? How often are orphanage visits made by agency staff from the U.S. and abroad?
- What kind of medical information, and social and family history can you expect with your referral?
- How much time will you be allowed to consider a referral before officially accepting or rejecting it?
- What happens if you feel the need to reject a referral?
- If further medical information is needed, what is the agency's experience in obtaining such information?
- How often can a parent expect updates and photos of the referred child?
- How often does the agency contact waiting families throughout the adoption process?
- What are the licensing requirements for the orphanages the agency works with? When are the licenses due to expire?

Before you sign a contract for services with an adoption service provider, make sure you are clear about the services they are offering, your legal rights and

responsibilities, and the agency's legal rights and responsibilities. Read the contract thoroughly, and write down any questions you might have as you read. If there are areas in the contract that you object to, ask the agency about its willingness to strike or revise those areas. Trust your instincts—if it feels wrong, it probably is wrong. Strongly consider hiring an attorney to review the contract before you sign it.

The Importance of Keeping Good Records

Keeping detailed records during your adoption process is very important. There are few legal protections for adopting parents and/or expectant or birth parents, and compiling information from the beginning can make your life much less stressful, and your case much stronger, should something go wrong. Having detailed records and copies of documents can also help clear up misunderstandings, jog people's memories when necessary, and be a lifesaver if someone loses those crucial documents.

If you are just starting out in the process, you may think keeping such detailed records is unnecessary because your agency, facilitator or attorney is apparently honest and so nice. In most cases, adoptions turn out fine, but as the old saying goes, an ounce of prevention is worth a pound of cure.

If the adoption concludes successfully, you can keep the records for your child. Someday he or she may want to read your notes. Memories fade, and you may forget details that will be important to your child later in life. If things go badly, your records will serve another important purpose!

Below are some of the ways you can get organized and start recording facts about your experience.

Keep a journal: Write down your thoughts, emotions and expectations. Record notes about activities and events that occurred prior to the adoption.

Keep records: Make copies of all documents involved in the adoption, and any contracts and side agreements you sign with the provider. Keep all receipts for payments you have made. If there is something in the process that is very important to you, ask the provider to put it in writing and keep this with your records. If the provider balks at putting it in writing, you may have cause for concern.

Print off a copy of the agency's website on the day you sign a contract, specifically pages relating to the plan or program through which you plan to adopt. Keep copies of the brochure and other materials the agency mails or faxes you. (If you have a thermal fax, make photocopies of the faxes, since thermal print fades quickly.) Keep copies of all emails from the agency and from you to the provider.

Write down the dates and times of phone calls, whom you spoke with, and what was discussed. If it was important information that you want to verify it is a good idea to send an email or letter stating, "I would like to follow up on our phone conversation today when we discussed X,Y,Z." This gives the other party the opportunity to give written feedback on a conversation that took place.

Make notes in your records of inconsistencies, questions raised, or comments that your adoption service provider makes that strike you as odd or unusual.

Stay Informed and Connected

Join online groups of parents who have adopted or are adopting from the same country or state you are. Introduce yourself and tell people which agency or provider you are using. Should problems arise, you may need to connect with other clients of the same provider. Adoption providers should not give out your name to anyone without permission. This violates many states' confidentiality laws.

If your agency tells you not to use the Internet, be cautious and ask questions. This could signal a pattern of complaints they don't want you to see.

You may think that adoption fraud can't happen to you, but it happens to people like you every day. Adoption is an under-regulated industry. Be a smart consumer.

DON'T IGNORE RED FLAGS

In far too many cases, adoptive families who experience problems with their adoption will later say that they had a bad feeling early on in the process. Don't ignore the signs of problems. Your hearts, your emotions, and potentially your life savings may be riding on your ability to make good decisions during the adoption process.

Your Agency Might Be Questionable If...

Before you sign a contract, you find that the agency:

- Offers a child for referral
- Does not require any adoptive parent preparation classes or training
- Does not offer pre-adoptive or post-adoptive counseling
- Is willing to bend or overlook United States law or laws of the foreign country for you
- Refuses to give you the name of its employees, facilitators, or agents
- Resists revealing its fee structure during your initial contact
- Insists that clients sign a gag clause as part of the service contract
- Resists sharing its contract upon first contact
- Makes promises about the length of time to complete an adoption that is unusually fast compared to other agency programs in that country
- Promises it will have available children that are unusually young compared to other agency programs in that country
- Doesn't respond to your call or inquiry in a timely manner, or doesn't have the time to answer your questions on the first call. Does this agency have proper resources to speak with you during the adoption process and handle a crisis, should it occur?
- Makes promises or guarantees that it won't put in writing
- Claims to have special connections, or knows of special loopholes, that gives it an edge over competing agencies
- Requires a fee before signing a contract, or requires a large up-front fee that is non-refundable
- Charges fees for questionable expenses (e.g., translation fees when all documents are in English, open-ended foster care fees)

(i.e. you must pay a monthly foster care fee for every month the child remains in the orphanage prior to adoption—this may give the agency a reason to delay your adoption), fees in excess of what a country allows).

At any time before or during your adoption, the agency:

- Declines to answer specific questions
- Provides answers to your questions that appear to be contradictory, vague, inaccurate or unrealistic
- Obtains prepayment for the adoption of a child you later find was nonexistent or ineligible
- Offers a child for referral prior to home study approval
- Requests additional funds not previously detailed in your contract
- Requests that you carry large cash donations overseas to offer as gifts to officials or orphanage personnel
- Requests that you purchase and provide expensive gifts to officials or orphanage personnel
- Promises the referral of a child not yet legally eligible to be referred
- Threatens legal action for speaking about your experience with its services
- Insists that you sign a separate gag clause in order to receive a referral, even after initial contract is signed
- Engages in bullying tactics for parents who ask too many questions or resist compliance with questionable practices. Examples of such tactics include threatening to take back a child referral, questioning the psychological fitness of the parents after previously accepted as fit, or threatening to cancel adoption services entirely
- Shares confidential information about other families.

After your adoption is complete, you realize the agency:

- Knowingly offered a supposedly healthy child for adoption that is seriously ill with health issues that are obvious and/or known
- Falsified a child's abandonment, medical, or background paperwork;
- Knowingly provided cash incentives or bribes to bypass laws in the sending country or the United States
- Knowingly misrepresented children as being biologically related (siblings or twins) when they were not
- Offered you a different child than the child originally referred for adoption after you arrived in the country
- Asked you to misrepresent information to any party to the adoption, including the home study agency, social workers, government officials, foreign country officials, other agency staff, or other families
- Failed to provide post-placement services, or send post placement reports as per your contractual agreement.

The Home Study

The home study process varies by state, and for the most part, it is fairly similar to the process already described for domestic adoptions. It includes interviews with all adult members of the prospective parents' household, including any adult children; a home visit during which your home will be checked for appropriate and safe living conditions for a new child; questions about your ability to care for a child with special needs, and questions about your financial health, physical health, and mental and emotional health, including the dynamics of your family relationships. You will be asked about your educational background, religious background, and your beliefs about parenting and child-rearing. The home study includes background checks for all adult members of the prospective parents' household.

A very detailed explanation of the home study process can be found here: http://www.childwelfare.gov/pubs/f_homstu.cfm

Home Studies for Hague Countries

If you intend to adopt from a Hague country, you must submit your home study to USCIS with Form I-800A. To comply with U.S. regulations for adoptions from Hague countries, the home study:

- Must be completed by an accredited adoption agency. If your home study agency does not place children for adoption, but completes home studies only, they are considered to be an “exempted provider” and the Hague regulations allow them to complete your home study. However, an accredited adoption agency must subsequently approve the home study. If you plan to use an exempted provider for your home study, contact your placing agency and ask if they will accept a home study from the agency you want to use.
- Must be conducted by a person licensed to do homestudies.
- Must not cost more than the fee that was disclosed to you prior to the beginning of the home study.
- Must be transmitted within a certain time frame to the Central Authority in the country from which you would like to adopt.
- Must certify that prospective parent(s) have completed ten hours of pre-adoption education.

Home Studies for Non-Hague Countries

Prospective parent(s) who wish to adopt from a non-Hague country must file their home study with form I-600A to USCIS. Your adoption service provider does not need to be Hague-accredited to do a non-Hague home study. The person or agency must meet only the requirements for doing home studies that apply in the state in which it operates.

There is no parent adoption education requirement for adoptions from non-Hague countries, although certain agencies may require education hours. Agencies do not have to tell you how much a home study will cost prior to conducting it.

Special Considerations for LGBT Families

Due to the legal limitations that are sometimes imposed on LGBT singles and couples who wish to adopt abroad, you might wonder if it is best to disclose your sexual orientation or current relationship during the home study. You might fear that being honest will hurt your chances to adopt a child. You might feel that you can offer an incredible home to a child in need who might otherwise remain without a family, and wonder if lying or misrepresenting your relationship might be worth the ethical trade-off.

Resist the urge to be dishonest. Adoption service providers can provide you with much better service if they are aware of your family situation. Also, having your relationship “discovered” late in the adoption process or while traveling abroad can result in your referral being revoked, or worse, your child being removed from your care. Sadly, it can also result in extortion attempts; a person in the foreign country who discovers your relationship could threaten to tell the judge or ministry that has yet to approve your adoption that you are gay unless you pay a large sum of money.

Although there may be more obstacles for LGBT singles and couples hoping to create families through adoption, there are supportive home study providers, placement agencies, support groups, and professional organizations. By taking the time to seek out and employ these resources, you will be actively building an environment of positive support. These professionals will be able to help guide you toward adoption programs that will make adoption possible for you, while not requiring dishonesty.

Compiling a Dossier

Once your home study is complete, you will need to assemble a dossier to send to the country you wish to adopt from. A dossier is a collection of documents about your family. Requirements of what must go in the dossier differ from country to country but typically include health information, financial information, employment verification, guardianship plans in the event of your death, post-placement agreements in which you agree to send reports on your child to the country, birth certificates, marriage and divorce decrees, photographs, reference letters, a power of attorney to authorize a person in the foreign country to take legal action on your behalf, a copy of your home study, and copies of the adoption service provider’s licenses. Many of these documents need to be notarized and then certified by your state’s Secretary of State. Your agency should provide you

with step-by-step instructions on how to certify your dossier. Compiling the dossier can be a lengthy process, so find out from your agency what documents will be required, so that you can begin gathering documents as soon as possible.

Referral

After USCIS receives your I-800A or I-600A, USCIS will determine whether you are eligible to adopt a child from the country from which you are petitioning to adopt. If USCIS approves your petition, they will notify your placing agency to send your home study and USCIS approval paperwork to that country. Someone in the country will then determine whether you are eligible to adopt and, if a child is available for adoption, will send a report on a specific child to your agency, which will then forward the information to you.

Here, too, the information and process varies depending on whether the child's country is a Hague country or a non-Hague country:

In Hague adoptions, the information on the child will be sent in an "Article 16 Report." Agencies are required by law to give prospective parent(s) two weeks to consider the information in the report and decide whether they can meet the needs of the child they have been referred. This waiting period is designed to reduce the pressure on families to make a fast decision. If your agency pushes you to make a decision before the two weeks are up, that should be a red flag. We strongly recommend that you show all medical information to an international adoption medical specialist who has experience in evaluating children and medical records from overseas. Listings of some international adoption clinics can be found here: www.comeunity.com/adoption/health/clinics.html and here: <http://www.chinaconnectiononline.com/clinics.htm>

The information in this report should include a determination that the child is eligible for intercountry adoption, reasons that intercountry adoption is appropriate for this child, and all available known family and social history on the child. The referral should also include the child's birth certificate and a copy of the consent document whereby the parents relinquished the child for intercountry adoption, if applicable. The names of the biological parents will probably be removed.

In non-Hague countries, the information you receive may be less complete. It is not uncommon to receive only a picture, a birth certificate, and a brief medical

report on a child. You should insist on seeing full documentation, particularly in relation to the location of the parents and the formal process by which the child was determined to be an orphan. Keep in mind that some agencies require you to waive all rights to hold the agency accountable for your adoption or your fees— even if the child does not meet the United States definition of an “orphan.” Be cautious of any agency that will not give you sufficient time to consider a referral, that discourages you from seeking medical advice (or gives you no time in which to do so), or tells you that you must make a decision without getting the appropriate documentation.

For Hague countries, after you accept a referral, you will file Form I-800 and the USCIS will make a preliminary determination about whether the child is eligible to be adopted and immigrate to the United States. After this, you will submit a visa application to the appropriate U.S. embassy or consulate to determine if the child appears eligible to immigrate. Once the Form I-800 is provisionally approved, the consular officer will issue an Article 5 letter. A prospective adoptive parent cannot adopt or obtain custody of the child until the Article 5 letter is issued. This protects you from becoming the parent of a child who does not meet the definition of an “orphan” under U.S. law, and prevents you from traveling to, and becoming stuck in, a country before the orphan investigation is completed.

In non-Hague countries, *after* you adopt or obtain custody of the child (see “Travel” below), you file Form I-600 with the U.S. Embassy or Consulate in the country, which will conduct the investigation to determine if the child meets the U.S. “orphan” definition so that the child can immigrate to the United States. As there is no mechanism available for the U.S. government to conduct these investigations before you travel in non-Hague countries, you could find yourself stuck in the country for lengthy time periods if irregularities are discovered in your adoption, or in other adoptions occurring in the same area of the country, from the same orphanage, or during the same time frame.

Travel

Travel requirements vary substantially between countries. Some countries require a long in-country stay; some countries require two visits before an adoption can be finalized; some countries require prospective parent(s) to be present at a court proceeding, while others complete the adoption proceeding before you arrive; and other countries may allow someone else to escort the child to the United States for you. The best source of information on travel

requirements for each country is the U.S. Department of State, which has a list of countries and their adoption requirements here:

<http://adoption.state.gov/countryinformation.html>.

The most important thing to remember when traveling is to respect the prevailing culture and practices of the country in which your child was born. Similar to the way that countries vary in their travel requirements for adoptive parents, countries also vary to the extent that they are accepting of GLBT families. Some countries, similar to some U.S. states, explicitly bar GLBT individuals from adopting a child. Other countries are more supportive. Keep in mind that your behavior may influence whether others arriving after you will be able to adopt.

For example, if it is culturally insensitive for a same-sex couple to hold hands walking down a street, it may be best to refrain from doing so in that country, for several reasons. You may offend someone, who might then try to make adoptions from that country more restrictive. You may place yourselves and your family at risk. Also, the country from which you are adopting is entrusting you with a child from their country. The first step in respecting your child's birth culture is respecting the social practices in that country when you travel. Just as it is important to respect the country of origin regarding issues related to child welfare (for instance, in some countries it is expected that children will be dressed in several layers of clothes, even when it is 90 degrees outside), or dress codes (in some countries it is considered extremely rude to wear tank tops or shorts), it is important to respect the social mores governing gendered relationships, as well.

Post Adoption

Congratulations! You have successfully adopted a child. Once home, you should take the steps necessary to legally protect your family. As you know, this can be particularly important for GLBT families. If you are a couple that lives in one of the states that allows "second parent adoption," you should complete one as soon as you can. A listing of states that permit second-parent adoptions can be found here: http://www.familyequality.org/resources/publications/secondparent_withecitations.pdf Whenever possible, it is important to legalize the relationship of both parents to the child to protect the family.

In states where second parent adoption is not possible, there will be only one legal parent. The other parent is a "legal stranger" to the child. In this case other documents can be used to create clear intent on the legal relationships involved

in your family. These measures have not always been successfully upheld in court, so be certain to consult an attorney who can help you find the best means of defining your family in your state. These agreements will be important in the event the legal parent dies or the parents' relationship ends.

There are numerous examples of GLBT relationships ending, with the legal parent claiming that the other parent should have no rights to the child because the other parent is a "legal stranger" to the child. Protect your family, and continue to advocate for second parent adoption for all states. All kids deserve the right to be legally connected to their parents, to have legal access to family court on behalf of their relationships with both parents, and to receive benefits such as inheritance rights, Social Security survivorship benefits, and health insurance.

Consumer Protection in Adoption

Despite your best efforts, there is always the potential that problems could occur during your adoption. Agencies go out of business, a lack of adequate regulation leaves consumers open to adoption fraud schemes, and countries close to adoptions. Knowing how adoption is regulated (or not), and how you can protect yourself is essential. You must take steps, throughout your entire adoption process, to protect yourself and your family. You should learn who to contact if you need assistance. This section will help you do that.

Reporting Complaints: What You Should Know

If you are one of the growing number of birth parents and adoptive parents who have experienced problems in your adoption experience, you must decide whether you should report your experience to the appropriate regulatory authority, if one is available to you.

We've received many reports of families being threatened with retaliatory action for reporting complaints. Some claim agencies have threatened not to complete adoptions, or to have children removed from the home. Threats of defamation suits are common.

If you have experienced problems in your adoption, the following information may be helpful to you.

Why Report Complaints?

When parents have poor experiences with adoption service providers, they may feel that it's not worth reporting those experiences to the appropriate authorities. Both birth parents and adoptive parents may feel at the mercy of the agency, lawyer or facilitator, and powerless to effect change. The birth parent may just want to grieve and move on, while the adoptive parent has a new child (or no child), and may not be in the mood to stir things up. In too many cases, adoption professionals encourage this apathy by threatening or even lying to parents, telling parents they are legally bound to relinquish parental rights when they're not, or telling adoptive parents that they may lose the child if they don't stay quiet, pay unexpected fees, or otherwise cooperate.

Unfortunately, it is true that complaints to state or federal agencies can go unheeded, but it is still important to register legitimate complaints. The first step is to try to work things out with the agency. It is possible, for example, that an agency is unaware that a facilitator in a foreign country is engaging in unethical practices. You may have misunderstood agency policy (a good reason to keep records). If you are a prospective parent whose adoption fell through or a birth parent grieving the loss of your child, your emotions could be coloring how you view your treatment and the process. A competent, caring adoption service provider will work with you, not against you.

If that does not work—and especially if an adoption professional tries to threaten or intimidate you, or the service provider’s behavior has been so out of line there’s no point discussing it with the provider—report the agency to the appropriate overseeing entity (a list follows).

There are several reasons why you should report your experience.

Accountability: Adoption service providers must be held accountable when they fail to provide services in an ethical, honest, competent manner.

Awareness: Our government must protect children and families. In order to do this, they must be aware of the problems in the system.

Policy changes: Reporting experiences can prompt adoption service providers to make changes in their policies or staffing to avoid problems for future clients.

Strength in numbers: Your case may not prompt a state-level investigation of a provider, but if your complaint is one of twenty, it will be difficult for the licensing agency to ignore. If you don’t report your experience, why should anyone else? Prompted by complaints, government agencies in several states have been able to shut down unethical agencies or facilitators.

Catharsis: At an emotionally charged time such as this, reporting your poor experience may offer some closure, making you feel that at least you did something.

You may be ready to report your experience, but are still afraid it will be a waste of time and paper. Do it anyway. If no one reports their experiences, there is no way of knowing just what or how much needs to be reformed in adoption.

How to Report Complaints

If you need to file a complaint against an agency or person who handled your adoption (or near-adoption), first find out who oversees your adoption service provider. This may be a state bar association for an attorney or a state licensing agent for a licensed agency. Unlicensed facilitators can be reported to the Better Business Bureau, local human services office, attorneys general, and federal authorities if the case crosses state or national boundaries.

State Licensing Authorities

Regulation of adoption begins at the state licensing level. Generally, the same licensing regulations are applied to both domestic and international adoption. In virtually every state, an agency that wishes to place children for adoption must be licensed to do so. However, some states also allow unlicensed individuals, also called facilitators, to operate. If you experience a problem with an unlicensed individual, a state licensing office may be unable to assist you.

The licensing authorities monitor the status of child welfare agencies, and collect and retain all official complaints filed against a particular agency. When you contact them, it's best to request the state licensing statutes and then submit a complaint pinpointing where you believe the agency did not follow the statutes. It is very important that you emphasize regulation breaches and provide supplemental evidence including emails, phone call transcripts (you should check state consent laws on recording calls), contracts, and invoices.

Unfortunately, many states have insufficient adoption regulations so that, for example, the state may have no law or regulation against buying children abroad. However, the state might be able to take action for a lesser offense, such as a breach in client confidentiality (i.e., an agency publicly shares your case details with other families). Fortunately, most states recognize that private international adoptions must be in accordance with international and U.S. laws. Families are thus encouraged to cite breaches in the sending country's international adoption laws, which can often be obtained through online searches or the U.S. Embassy in the particular country. Suggest that the licensing office contact federal authorities (and give them contact information to do so). An attorney can assist with a complaint.

[State Attorneys General](#)

Complaints may also be sent to the state Attorney General in the state where the

agency is licensed and/or headquartered, particularly if you suspect criminal activity. If there is an investigation, the state licensing authority will work with the state attorney general's office. Often it is up to the individual to encourage and advocate for this cooperation. Again, it is best to reference state licensing statutes.

[U.S. Department of State Office of Children's Issues](#)

As the U.S. Central Authority under the Hague Convention, this office is the most important place to lodge a complaint against an international adoption agency.

If you believe that there has been a violation of federal law, then you should contact the U.S. Department of State at AskCI@state.gov.

Complaints about a Hague-accredited agency or process within a Hague country can be made here:

<http://adoptionusca.state.gov/HCRWeb/WelcomeForm.aspx>

If your Hague-accredited agency threatens to retaliate against you for filing a complaint, report this to the Department of State at once. The Hague regulations prohibit this conduct and an agency may lose their accreditation for doing so.

[U.S. Department of Citizenship and Immigration Services:](#)

This office oversees immigration authorities who investigate orphan visa eligibility in sending countries and processing offices in the U.S. It also assists with inquiries on specific cases involving requests for humanitarian parole and emergency medical visas.

International Operations Division-Children's Issues
U.S. Citizenship and Immigration Services
111 Massachusetts Avenue, NW., 3rd floor
Washington, DC 20529
(202) 272-9176

[Joint Council on International Children's Services \(JCICS\):](#)

JCICS is a membership organization of private, international adoption agencies and other international child welfare organizations. JCICS has a complaint process.

Ethica: Parents who experience adoption difficulties should feel free to contact Ethica for assistance. You may also CC us on correspondence you send to licensing authorities, attorneys general, the Department of State, USCIS or JCICS. Send your complaint information to: info@ethicanet.org.

Additional contact information can be found at the following sites:

<http://www.findlaw.com/O6associations/state.html> (for attorneys)

<http://www.naag.org> (National Association of Attorneys General)

<http://www.fbi.gov> (Federal Bureau of Investigation)

<http://www.ice.gov> (Immigration and Customs Enforcement)

Some tips

Always file complaints in writing. Faxes and emails count as written statements, though it is probably best to send complaints via mail or express service, with tracking. Do not file your complaint by phone, though an initial phone call is fine to determine who it is best to address the complaint to.

When sending in a complaint, document the facts carefully, listing events in chronological order. (See, The Importance of Keeping Good Records in previous sections.) Cite any evidence you may have of wrongdoing. Try to limit your complaint to what actually occurred in the adoption process, and limit your report to events that you experienced firsthand or things that you heard directly from the provider, not from someone else (though it is relevant to mention if other families have reported a pattern of abuses). Pretend that you are on the witness stand, under oath. What could you tell a court that isn't hearsay, opinion, or conjecture?

Your report should be sent to the relevant overseer of the adoption service provider. It is a good idea to make sure the complaint is copied to someone else, usually the state attorney general's office in the state where the provider is working. This will ensure that more than one person is reading the complaint and lets the relevant licensing authorities know that others are being made aware of the problem.

If this is an intercountry adoption and the complaint involves allegations against a foreign entity, a complaint could be sent to the Department of State, and the U.S. Embassy or Consular Office in the country where the adoption occurred (or was going to occur). This could also be copied to the appropriate foreign ministry that regulates foreign adoptions, and to immigration authorities if immigration laws were violated.

If the adoption service provider is a member of an organization such as the [Joint Council on International Children's Services](#), contact the group for procedures on filing complaints against a member agency.

Note: You will likely not be held liable in court for true statements or opinions made to a public entity. There are privacy laws concerning the information you give to government agencies and it is unlikely that your adoption service provider would win a lawsuit against you for providing a factual account of your experience to a governmental entity. However, see information below on reducing your chances of being sued for defamation.

After registering a complaint, follow up with a note or phone call, making sure that the overseeing agent received your complaint and asking if they have any questions or need any clarification from you.

If you are just one of several individuals or families who have had similar bad experiences with this service provider, considering filing the complaints together. A stack of complaints will get more attention than a complaint from one individual.

Be cautious about saying unfavorable things about adoption service providers on email lists. You can be held legally liable for those statements, and even if you are careful to limit your message to facts, you could start a thread of messages that are not so carefully crafted. An adoption service provider who feels wronged may sue several members of the list, including you.

Defamation: Reduce Your Chances of Being Sued!*

The anonymous nature of Internet communications often inspires people to think they can say whatever they like, without consequences.

Not so. Defamation—making statements that harm someone’s reputation or livelihood—applies as much to emails, forum messages, and websites as it does to print and broadcasting. Traditionally, the courts have defined two types of defamation: libel, which is written, and slander, which is spoken. Damages for libel tend to be greater.

People have been, and will continue to be, sued for online defamation. Even if you eventually win such a suit or it is dismissed, it could be months or even years before the suit gets to court or is settled. In the meantime, you have attorney’s fees, and your financial life is put on hold.

To count as defamation, the statement must be made to someone besides the target of the defamation. Therefore, if you accuse a facilitator of baby-buying when there’s no one else around to hear you, she cannot prevail in a suit against you. If you accuse her of the same thing on an email list, she can sue—although you have a good chance of eventually winning if you can produce enough evidence that she was indeed buying babies.

In other words, truth is a defense against libel. That is why, if you feel compelled to say or write something potentially defamatory about someone, you need to be very careful to stick to facts—just the facts, and facts that can be verified. On the other hand, the courts have held that opinion is protected as well, if it’s clearly opinion. If you say of the same facilitator that she’s witchy and has bad hair besides, she may be upset, but she has no grounds to sue you. Remember, though, that anyone can sue you at any time—even if you eventually prevail, lawsuits are expensive. If you are careful, however, many people will not sue you unless a lawyer informs them that they have a chance of winning.

Public status matters. You can say things about the President of the United States or other people in the public spotlight, whether they’re in the spotlight by choice or by chance, that you cannot safely say about your next-door neighbor.

Intent matters as well, whether the person is a public official or not. If you pass along gossip or falsehoods with malicious intent, you are much more likely to lose a lawsuit.

Passing along someone else’s defamatory statements is not a good idea, either. The courts have ruled in different ways on this issue, but generally, if you have been informed, or have reason to believe, that an email is defamatory, you could

be held liable for passing it along to other lists. It's also dangerous if you're passing along the message without the permission of the person who originally wrote it, especially if that person might have retracted the defamatory statement on the original list. Although forwarding is a commonly accepted practice on email lists, technically email and forum messages are copyrighted and belong to the persons who wrote them.

It is a very good idea, especially if you belong to email lists and/or forums or run a website, to make sure your homeowner's insurance covers liability for defamation, libel, and slander, as well as physical injuries. Some policies cover it by default; others require that you buy a rider to the policy for personal injury liability. Ask your agent.

** This is NOT intended as legal advice. Always consult an attorney before making statements that could be libelous.*

Other Parenting Options

More couples are beginning to explore other ways to build their families, including surrogacy arrangements and other assisted reproductive technologies (ARTs). These other options are beyond the scope of this guide. However, there are issues that are common to both adoption and ARTs that you should be aware of if considering this option:

- Identity
- Potential for fraud
- Legal issues

Identity

Adopted persons have been instructive in advocating for greater disclosure of their origins, highlighting their natural desire to know one's identity. People conceived through donor insemination (DI) are also becoming a growing and vocal group advocating for disclosure. Though the focus of many prospective parents, initially, is on having a baby or young child, individuals embarking on ART procedures with the assistance of third parties should be mindful that the children born of these arrangements will likely grow up wanting to know the identity of any others who are involved in their birth. They will also seek important information, such as medical and social history. Adoption literature on these topics might be helpful reading for you if you consider ART.

Potential for Fraud

Unfortunately, as with adoption, people using ART procedures may encounter unethical practices. Many today are considering ART both at home and abroad. They may be subject to over-inflated claims of the chances for a successful pregnancy. Yet in practice, success rates are often incomplete or obscured by glowing testimonials, media hype, and success stories, which create huge publicity for rare successful pregnancies and silence regarding the large number of failures and miscarriages. Clinics have also been known to inflate the success rate by defining “success” in terms other than the “take-home baby rate”—for example, by including non-viable chemical pregnancies in the statistic. Other frequent complaints include fees and expenses that are charged upfront but not refunded, or fees that increase unexpectedly and without advance disclosure.

Consider in advance what recourse you have available in the event of fraud or unethical activity.

Finally, if you're contemplating ART procedures, ask yourself important questions about the extent to which the third parties in the United States or abroad—for example, women transferring eggs or serving as surrogates—may be being exploited or are not providing informed consent.

Legal Issues

Because the laws of the fifty states differ as to ART and surrogacy arrangements, complications can arise as to the validity of contracts between the commissioning parents and other third parties. For example, in some states, surrogacy contracts are considered void or unenforceable while in other states, such contracts are honored. Parentage issues differ across the states as well. The differences in state law may present legal complications surrounding who will be considered the legal parent(s) of the child, the issuance of birth certificates, and the payment of expenses to third parties.

With respect to international arrangements, complicated issues related to immigration and citizenship may arise. Application of the Immigration and Nationality Act to infants born abroad through ART procedures is not always clear, primarily because being born “of parents” is not defined by statute or regulation in the context of ART. The problems with unsettled citizenship status are not limited to the initial difficulty in entering the United States, and may also subject the child to the risk of having his or her citizenship status challenged at a later date. Problems with citizenship status may lead to difficulty in traveling to and from the United States, risk of deportation, which are similar to issues that some adopted persons adopted internationally have faced as adults when their citizenship status was not finalized when they were children.

Resources

LGBT Adoption Wikipedia entry (includes state by state chart)

http://en.wikipedia.org/wiki/LGBT_adoption

ACLU webpage on Lesbian/Gay Parenting Rights (contains publications, legislative and legal documents, expert witness testimony excerpts, fact sheets and court cases)

www.aclu.org/lgbt/parenting/index.html

Adoption Education Center (affiliate of adoption.com) Resources for Gays and Lesbians (contains legal briefs)

www.adoptiononline.com/alternfam.html

Gay/Lesbian Law Pathfinder (collection of relevant law)

www.llrx.com/features/gaylesbianlaw.htm

National Center for Lesbian Rights (Adoption by Lesbian, Gay and Bisexual Parents: An Overview of Current Law)

www.nclrights.org/site/DocServer/adptn0204.pdf?docID=1221

Lesbian/Gay Law Notes

www.nyls.edu/pages/3876.asp

Lambda Legal (Overview of State Adoption Laws)

www.lambdalegal.org/our-work/issues/marriage-relationships-family/parenting/overview-of-state-adoption.html

National Resource Center for Foster Care and Permanency Planning (Information Packet: Gay and Lesbian Second Parent Adoptions)

www.hunter.cuny.edu/socwork/nrcfcpp/downloads/information_packets/gay_lesbian_second_parent_adoption.pdf

Nolo Press article on Gay and Lesbian Adoption and Parenting

www.nolo.com/article.cfm/objectId/63423603-9D36-4ECA-B3626C7615458270/118/122/174/ART/

Human Rights Campaign Section on Adoption (contains sections on laws, legislation and news)

<http://www.hrc.org/issues/parenting/adoption.asp>

AdoptHelp summary of state laws

www.adopthelp.com/alternativeadoptions/alternatives2.html

Gay and Lesbian Adoptive Parents by Child Welfare Information Gateway

<http://www.enotalone.com/article/9874.html>

Child Welfare League of America

<http://www.cwla.org/programs/culture/glbqtqposition.htm>

¹ Russell Toomey, The University of Arizona (need more biographical information)

² Conger, J.J. (1977). Proceedings of the American Psychological Association, Incorporated, for the year 1976: Minutes of the Annual Meeting of the Council of Representatives. *American Psychologist*, 32, 408-438.

Footnotes

1. Russell Toomey, The University of Arizona.
2. Conger, J.J. (1977). Proceedings of the American Psychological Association, Incorporated, for the year 1976: Minutes of the Annual Meeting of the Council of Representatives. *American Psychologist*, 32, 408-438.
3. Child Welfare League of America (2004). Motion of the Child Welfare League of America for leave to file brief amicus curiae in support of petitioners (No. 04-478).
4. National Center for Lesbian Rights. (2004). Adoption by lesbian, gay and bisexual parents: An overview of current law.
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6. Family Equality Council. (2007). Other organizations. Retrieved May 20, 2009, from <http://www.familyequality.org/resources/otherorganizations.html>
7. Wingspan. (2009). Wingspan's history: A story of community. Retrieved May 20, 2009, from http://www.wingspan.org/content/com_about1.php
8. <https://egov.azdes.gov/CMSInternet/main.aspx?menu=102&id=1242>
9. <http://www.urban.org/publications/411437.html>
10. See Appendix B, http://www.adoptioninstitute.org/publications/2008_09_Expanding_Resources_Legal.pdf