

Commissioner Guidance Document Transmittal

Date - December 1, 2021

Manual – Child and Family Services Manual, Chapter F, Adoption

Transmittal # - 299

The purpose of this transmittal is to provide notice of the significant new, revised, and clarified guidance changes for Chapter F. Adoption Program of the VDSS Child and Family Services Manual. Unless otherwise stated, the provisions included in the transmittal are effective upon release.

Changes to the guidance were made reflecting legislation passed through the 2021 session of the Virginia General Assembly that became effective on July 1, 2021. Those updates included:

- Removing the requirement for the circuit court to order a report of investigation on an adult adoption unless there is good cause to require an investigation.
- Added a provision to stepparent adoptions allowing persons with a legitimate interest to file a petition to adopt a child.

Additional updates to the guidance include clarifying eligibility requirements for the adoption assistance program and providing information on the available tax benefits for adoptive parents. Updates have also expounded on ICPC processes for adoption placements, explained ICAMA procedures, provided procedures to follow when an adoption placement disrupts or dissolves, and included guidance on selecting the most appropriate post-adoption service. The manual has also been restructured, moving types of special services from Section 2: Adoption Assistance to Section 4: Post Adoption Services.

When the language in a section appears *italicized*, it indicates new, revised, or clarified guidance. All program tools and timelines have been removed from the appendices and are available on FUSION. Additionally, all electronic links have been updated throughout the chapter.

This transmittal and manual are available on FUSION at [Adoption Guidance](#).

Significant changes to the manual are as follows:

Section(s) Changed	Significant Changes	Reason for Change
Section 2: Adoption Assistance		
Section 2: Adoption Assistance Numbering	The numbering sequence has changed due to relocating sections and subsections, collapsed sections, or new heading titles added within the Adoption Assistance Section.	
2.2 Questions and Clarifications	Adds a new subsection formalizing the process for addressing questions regarding the application of policy or procedures.	Programmatic Information Update
2.4 Promoting Adoption Assistance	Adds a new subsection to include the Federal regulation 45 CFR 1356.40(f) and the Fostering Connections to Success	Programmatic addition, addressing federal regulation 45 CFR 1356.40(f) and

	and Increasing Adoptions Act of 2008 P.L. 110-351 on promoting the adoption assistance program.	P.L. 110-351 on promoting the adoption assistance program.
2.4.1 Adoption and Guardianship Incentive Funds	Adds a subsection for incentive funds and describes how funds can support the timely finalization of adoptions.	Programmatic addition, addressing P.L. 105-89 that created incentive payments for states.
2.5 Adoption Assistance Eligibility	Clarifies guidance regarding completing the Adoption Assistance Screening tool and grants authority to the Regional Assistance Negotiator to verify the accuracy of the tool once it's complete.	Programmatic Information Update
2.5.1 Special Needs Eligibility	<p>Clarifies requirements for the court to make a determination that the child cannot or should not be returned home:</p> <ul style="list-style-type: none"> • Adds language requiring the court to issue a subsequent TPR order within 180 calendar days. • Clarifies that the order must contain a <i>finding</i> that to remain in the home was contrary to the child's welfare. • Adds that in addition to the federal law, adoption assistance is also governed by the laws and regulations of the Commonwealth of Virginia. • Clarifies that criteria related to physical, mental, or emotional conditions must be documented by a qualified licensed professional via relevant medical, psychological, and diagnostic assessments. • Clarifies that criteria related to hereditary tendency, congenital problem, or birth injury leading to a substantial risk of future disability must be documented by the child's birth and recent medical records (within a year) and the birth parent's medical history. • Adds that if one of these three conditions (hereditary tendency, congenital problem, or birth injury) is the child's sole identified special need (including substance exposure) and there is no evidence the child currently has a related disability, the 	Programmatic Information Update

	<p>adoptive parent and the LDSS must enter into a Conditional Adoption Assistance Agreement, with a zero dollar maintenance payment.</p> <ul style="list-style-type: none"> • Clarifies that children in sibling groups do not have to be placed in an adoptive home at the same time; however, they do have to each be placed in the same federal fiscal year and both be in the custody of the LDSS. • Adds that funding for Basic Maintenance, Enhanced Maintenance, and Special Service payments must be directly related to the child’s special need, as identified on the original Adoption Assistance Agreement or Addendum to the Adoption Assistance Agreement forms. 	
2.5.3.1 Applicable Child	<ul style="list-style-type: none"> • Clarifies that if the child was found eligible for adoption assistance in a prior adoption that has been dissolved, there is no requirement for the child to reenter foster care to maintain their title IV-E eligibility status. 	Programmatic updates, clarifying existing information.
2.5.4.2 After the Adoption is Finalized	Clarifies that adoption assistance must only be approved when the condition was present before the adoption was finalized but not diagnosed until after finalization.	Programmatic updates, clarifying existing information.
2.6 Types of Adoption Assistance	Clarifies that adoption assistance payments may include title IV-E or state funded maintenance payments; however, payments must not exceed the foster care payment that the child would have received at the time the initial adoption assistance agreement is signed (63.2-1302).	Programmatic updates, clarifying existing information.

Commissioner Guidance Document Transmittal

<p>2.6.1 Non-Recurring Adoption Expenses</p>	<ul style="list-style-type: none"> • Adds that reimbursement for non-recurring expenses may begin as soon as the adoption assistance agreement has been signed (22VAC40-201-161). • Adds that if the adoptive placement disrupts before the adoption finalizes and there is a signed Adoption Assistance Agreement, any fees the prospective adoptive parent incurred in completing the adoption are reimbursable by title IV-E, up to \$2,000. • Adds that non-recurring expenses are per child per adoptive placement. If a placement disrupts prior to finalizing and a new agreement is initiated with a new adoptive parent, the parent is entitled to receive the full \$2,000 to help facilitate the adoption. 	<p>Programmatic Updates</p> <p>– aligns with Federal Code 45 CFR 1356.41, Virginia Code 63.2-1301 D and Virginia Administrative Code 22VAC40-201-161.</p>
<p>2.6.3 Enhanced Maintenance Payments</p>	<ul style="list-style-type: none"> • Clarifies that assessment of a child’s need for additional support and supervision is a process that is ongoing from their initial placement in foster care. • Adds that if over the life of the foster care placement it was determined that the child’s needs did not warrant additional support and supervision, no additional support and supervision will be paid strictly because the child is being adopted. • Adds for children in LDSS custody, an enhanced maintenance payment will not be approved if the child has not received ongoing enhanced maintenance payments over the course of the previous 12 months. (22VAC40-201-161). 	<p>Programmatic Updates</p> <p>– aligns with Federal Code 42 U.S.C. 673 and Virginia Code Section 63.2-1302 and 22VAC40-201-161.</p>

<p>2.6.3.1 Administering the Virginia Enhanced Maintenance Tool (VEMAT)</p>	<ul style="list-style-type: none"> • Adds that the Assistance Negotiator must and is only authorized to approve enhanced maintenance payments that can be supported through relevant documentation from qualified licensed professionals that is no more than one year old. • Adds that if the Assistance Negotiator determines the supporting documentation does not support the VEMAT score, the LDSS will be required to provide additional information within 10 calendar days to support the VEMAT score or complete a new VEMAT. If the requested information is not received within the 10 calendar days, the request for enhanced maintenance will be denied, and the negotiation will proceed with basic maintenance only. • Adds that the LDSS must provide supporting documentation for any new VEMAT that increased the score more than four points on the tool as compared to the most recent and active VEMAT score. • Adds that supporting documentation includes, but is not limited to, ongoing provider treatment logs, monthly and quarterly reports which demonstrate a marked increase in the child’s physical, mental or emotional health and the adoptive parent’s level of support and supervision due to the increase. • Clarifies that a VEMAT must not be administered if the Adoption Assistance Agreement will be signed within six months of a prior VEMAT assessment. • Adds that if the VEMAT is re-administered and there is a rate change, prior to signing the Adoption Assistance Agreement, the new VEMAT rate will go into effect the first day of the following month, using foster care funds (for children 	<p>Programmatic Update – aligns with Federal Code 42 U.S.C. 673 and Virginia Code Section 63.2-1302.</p>
---	---	--

	<p>in LDSS custody) until the Adoption Assistance Agreement is effective.</p> <ul style="list-style-type: none"> • For children not in LDSS custody, the adoption assistance agreement is effective, once the petition for adoption has been filed, the first day of the following month after all parties have signed or upon finalization of the adoption, whichever occurs first. • Clarifies that the maximum allowable amount for enhanced maintenance payments is based on the child’s VEMAT score, the final payment is based on negotiations between the LDSS, the Assistance Negotiator and the adoptive parent. • The enhanced maintenance payment must only be increased if, during the previous negotiation, the adoptive parents accepted less than the maximum allowable payment. (22VAC40-201-161). 	
<p>2.6.4 Special Service Payments</p>	<ul style="list-style-type: none"> • Defines special service payments as a payment that is used to meet a service need that a child has that cannot be met by the adoptive parents and is not covered under any other program or benefit for which the child would qualify. • Clarifies that unlike the basic and enhanced maintenance payment forms of adoption assistance, funding for special services does take into consideration all of the resources the adoptive parent has at their disposal to include earned and unearned income and the total amount of all adoption assistance payments received (22 VAC 40-201-161 E 2). • Adds that when residential placement is requested and the adoptive parents are receiving an enhanced maintenance payment for providing additional daily support and supervision, the enhanced .maintenance payment will be suspended until the child returns 	<p>Programmatic Updates – developed as part of a workgroup collaboration. Aligns with Virginia Administrative Code 22 VAC 40-201-161 E 2.</p>

	<p>home from the residential placement.</p> <ul style="list-style-type: none">• Adds that funding for all special services, regardless of when the original agreement was signed may be provided for up to a maximum of \$5,000 per calendar year for the total of all approved services; not to include residential treatment services.• Clarifies the service requested must be directly related to the special need identified on the original Adoption Assistance Agreement or the Addendum to an Adoption Assistance Agreement that added a new special need.• Clarifies that receipt of funding for service payments while in foster care does not guarantee approval of a special service payment at the time of adoption. Only after the Assistance Negotiator has had an opportunity to review the current documentation provided in the request will it be possible to determine if funding for the requested special service will be approved.• Adds that funding for new special services will not be considered with new Adoption Assistance Agreements nor within the immediate six months post adoption finalization.• Adds additional requirements to have a special services considered as a part of a new Adoption Assistance Agreement.• Adds that funding for specialized therapy, such as attachment therapy, trauma focused, etc. will not be approved at the time of adoption placement and signing a new Adoption Assistance Agreement or within one year of finalizing the adoption.• Adds that payment for the special service must be at the reasonable, customary and usual rate in the	
--	---	--

	<p>child’s community as determined by Medicaid; for example therapeutic services will be reimbursed at the Medicaid rate in the child’s place of residence (22VAC40-201-161).</p> <ul style="list-style-type: none"> • Adds that funding for special service payments must be approved prior to the adoptive parent incurring the expense, or will otherwise begin once the Adoption Assistance Agreement or Addendum is effective. 	
2.6.4.2 Terminating Special Service Payments	<ul style="list-style-type: none"> • Adds that funding for special service payments are time limited. Beginning January 1, 2022, for all Adoption Assistance Agreements, regardless of their effective date and any addendums, no special service will be funded by adoption assistance for more than two years over the life of the adoption case. • Defines conditions for when special services funding must be terminated. 	<p>Programmatic Updates – developed as a part of a Special Services workgroup collaborative project to address terms of service and outlined in Virginia Administrative Code 22VAC40-201-161.</p>
2.7 Medical Coverage	<p>Adds the importance of adoptive parents adding children to their health insurance.</p>	<p>Programmatic Information Update</p>
2.7.4 Private Health Insurance	<p>Adds a subsection that parents should be advised to add their adopted child to their private health insurance within 30 days of the adoption finalization, and the provisions of pre-existing conditions.</p>	<p>Programmatic Information Updates</p>
2.8 Supplemental Security Insurance (SSI) and Adoption Assistance	<p>Adds a subsection identifying the process for notifying the Social Security Administration once an adoption has finalized if a child is receiving SSI and adoption assistance.</p>	<p>Programmatic Information Updates</p>
2.8.1 Social Security and an Applicable Child	<p>Adds eligibility requirements for the Applicable Child and procedures to follow post adoption finalization.</p>	<p>Federal updates and additional information provided regarding 42 U.S.C. 673 and guidance from the Social Security Administration.</p>

Commissioner Guidance Document Transmittal

<p>2.8.2 Social Security and State Adoption Assistance</p>	<p>Adds eligibility requirements for the child receiving State adoption assistance and procedures to follow post adoption finalization.</p>	<p>Federal updates and additional information provided regarding 42 U.S.C. 673 and guidance from the Social Security Administration.</p>
<p>2.8.3 Social Security and a Non-Applicable Child</p>	<p>Adds eligibility requirements for the Applicable Child and procedures to follow post adoption finalization.</p>	<p>Federal updates and additional information provided regarding 42 U.S.C. 673 and guidance from the Social Security Administration.</p>
<p>2.9.1 LCPA Adoptions</p>	<ul style="list-style-type: none"> • Adds that if a private LCPA identifies that the child is potentially eligible for adoption assistance, the LCPA makes a referral on behalf of the child and family to the LDSS to request an Application for Assistance. • Establishes a process for LDSS to follow once a referral for adoption assistance is received from a LCPA. • Adds the LCPA must submit a completed Application for Assistance and provide the contents required in the application. 	<p>Programmatic additions, adds a process for applying for adoption assistance and processing requests for these populations per federal mandate 42 U.S.C. 671.</p>
<p>2.9.2 Independent Adoptions</p>	<p>Adds a subsection for information regarding meeting eligibility requirements for adoption assistance in Independent Adoption cases.</p>	<p>Programmatic additions on establishing eligibility for adoption assistance once an application is received.</p>
<p>2.9.3 International Adoptions</p>	<p>Adds a subsection for information Indicating adoption assistance must not be paid International Adoptions.</p>	<p>Programmatic additions on establishing eligibility for adoption assistance once an application is received.</p>
<p>2.9.4 Parental Placement Adoptions</p>	<p>Adds a subsection for information regarding eligibility requirements for parental placement adoptions.</p>	<p>Programmatic additions on establishing eligibility for adoption assistance once an application is received.</p>
<p>2.10 Tax Benefits for Adopting</p>	<p>Adds information from the Fostering Connections to Success and Increasing Adoptions Act of 2008 requiring LDSS to notify adoptive parents of the</p>	<p>Federal mandate added to meet requirements outlined in P.L. 110-351.</p>

Commissioner Guidance Document Transmittal

	adoption tax credit; explains the requirement in more detail.	
2.12 Adoption Assistance Application	<ul style="list-style-type: none"> • Adds information that must be shared with the adoptive parent prior to the adoptive parent formally requesting adoption assistance. • Adds instructions on using the Full Disclosure Checklist for Adoptive Families form. • Adds a formal process for applying for adoption assistance. 	Programmatic Information Updates
2.12.1 Reviewing the Application	<ul style="list-style-type: none"> • Reduced the timeframe for reviewing an Application for Assistance from 14 days to seven days. • Adds if the application is subsequently denied the LDSS must send the adoptive parent the Family Services Notice of Action and Right to Appeal form denying the adoption assistance application, indicating the specific reason why. • Adds every adoptive parent must be provided the opportunity to apply for adoption assistance. Only after applying and being denied for adoption assistance can the adoptive parent access their rights to the appeals process. 	Federal mandate addressing the need to act on applications with reasonable promptness 471(a)(12) .
2.13.1.1 When the LDSS Fails to Execute the Agreement Timely	Adds a subsection that includes a process for the LDSS to follow when they fail to execute an Adoption Assistance Agreement timely.	Programmatic Information Updates
2.13.1.2 Non-recurring Adoption Expenses Only	Adds a process for executing an agreement if the child is only eligible to receive non-recurring adoption expenses.	Programmatic Information Updates
2.13.1.3 Deferring Adoption Assistance	<ul style="list-style-type: none"> • Defines the following: <ul style="list-style-type: none"> -Deferred adoption Assistance -High Risk Considerations • Outlines a process for applying for deferred adoption assistance payments, screening for eligibility, and developing an Adoption Assistance Agreement. • Adds that children eligible for title IV-E deferred adoption assistance must be approved for title IV-E Medicaid but with a “zero dollar” 	Programmatic Information Updates

	<p>maintenance monthly payment. A child determined eligible for state deferred adoption assistance is not eligible for Medicaid.</p> <ul style="list-style-type: none"> • Clarifies the agreement does not require negotiation until a need expressed by the parent for monthly maintenance payments and a diagnosis is made supporting the payment. At that time, the LDSS will follow the procedures outlined in <i>2.14 Negotiating Adoption Assistance</i> to determine the monthly payment. • Adds the foster care basic maintenance rate set forth, at the time of the request, coinciding with the child’s age, will be approved if the child meets eligibility requirements. The child will also be considered for funding for special service payment requests. 	
<p>2.14 Negotiating Adoption Assistance <i>Programmatic Informative Updates</i></p>	<ul style="list-style-type: none"> • Adds that the Adoption Assistance Screening Tool is used to determine if the child is eligible for adoption assistance and it must be verified that it is accurate by the regional Assistance Negotiator. • Adds if the Assistance Negotiator determines the screening tool to be inaccurate, it will be returned to the LDSS. The LDSS must correct the screening tool and the adoptive parent(s) must sign the corrected tool to acknowledge they are aware of any changes made to the tool. • Adds the negotiation process must not proceed until the screening tool has been corrected and it has been resubmitted to the Assistance Negotiator. If the corrected tool is not submitted to the Assistance Negotiator within 10 calendar days, the Application for Assistance must be denied. • Adds the Assistance Negotiator may choose to conduct the negotiation by desk review, telephone, through an online tool (i.e. Zoom or Google Meets) or face-to-face, as 	

Commissioner Guidance Document Transmittal

	<p>appropriate per Assistance Negotiator responsibilities.</p> <ul style="list-style-type: none"> • Adds that at the conclusion of negotiations, the Assistance Negotiator will submit the Negotiation Report to the LDSS. Within five calendar days, the LDSS must provide the adoptive family with a Notice of Action and Rights to Appeal informing them in writing of the decision. 	
2.14.4 Assessing Resources to Defray Cost	<p>Adds the LDSS must complete the following: Available Community Resources: Assessing Resources to Defray Adoption Assistance form indicating what applicable resources were explored and the outcomes of exploration.</p>	<p>Programmatic informative updates related to Virginia Administrative Code 22 VAC 40-201-161.</p>
2.15.1 Re-determination/Review	<ul style="list-style-type: none"> • Adds that LDSS does not routinely review Adoption Assistance Agreements. The adoptive family must notify the LDSS immediately to request a review of the Adoption Assistance Agreement if there is a change in the child’s circumstances that would affect the child’s eligibility for continued assistance. • Adds the annual certification period provides an opportunity for the LDSS to reach out to the adoptive family and remind them of post adoption supports and services that are available to them. For additional information regarding renegotiating adoption assistance agreements see Section 4 Post Adoption Services. 	<p>Programmatic informative updates related to Virginia Code Section 63.2-1301 B and Administrative Section 22 VAC 40-201-161.</p>
2.16 Terminating Adoption Assistance	<ul style="list-style-type: none"> • Adds that when adoption assistance payments are terminating, the LDSS must use form Family Services Notice of Action and Right to Appeal to inform families. • Clarifies conditions on which to use the form and the need to inform families of their right to appeal the termination. 	<p>Programmatic information updates addressing Virginia Administrative Code 22 VAC 40-201-161.</p>
2.16.1 Reasons for Terminating Adoption Assistance	<ul style="list-style-type: none"> • Clarifies when federal and state law require that adoption assistance be terminated without concurrence of the adoptive parent. 	<p>Programmatic information updates addressing federal mandates on appeals</p>

Commissioner Guidance Document Transmittal

	<ul style="list-style-type: none"> • Adds that adoption assistance payments are not transferrable in situations where the adoptive parents die, or the adoption is dissolved. • Clarifies that the child retains their eligibility for adoption assistance, as long as they continue to meet the definition of special needs. 	and fair hearings in 42 U.S.C. 671 of the Social Security Act, Virginia Code 63.2-1304 , and Administrative Code 22 VAC 40-201-161 .
2.16.3 Timelines for Terminating Adoption Assistance	<ul style="list-style-type: none"> • Establishes a timeline for terminating adoption assistance as the first day of the month following the decision of the LDSS and/or adoptive parent to close the adoption assistance case, upon providing proper notice of action. 	Programmatic Information Update
2.17 Special Adoption Considerations	Creates a new Section	
2.17.1 Therapeutic Case Management	<ul style="list-style-type: none"> • Creates a new subsection • Clarifies that for children receiving services provided by a therapeutic foster care (TFC) agency, once the adoption placement and adoption assistance agreements have been signed, treatment foster care services will end on the day prior to the effective date of the Adoption Assistance Agreement. 	Programmatic Information Update
2.17.2 Interstate Adoption and Adoption Assistance	<ul style="list-style-type: none"> • Creates a new subsection • Adds that if the child is in the custody of a state agency it is the responsibility of the state with the placement and care responsibility of the child prior to the adoption to provide adoption assistance; not the state of residence of the adoptive family. • Adds that if the child is not in the custody of a state agency and the state agency does not have responsibility for placement and care, it is the adoptive parents' state of residence where the adoption assistance application should be made. In this situation, the LDSS in the adoptive parents' place of residence is responsible to process the application, determine whether 	Programmatic Information Updates related to federal mandate 42 U.S.C. 673 on placement and care responsibility and Virginia Code Section 63.2-1000 on the Interstate Compact Placement of Children.

Commissioner Guidance Document Transmittal

	<p>the child meets the definition of special needs, enter into an adoption assistance agreement and pay the assistance.</p> <ul style="list-style-type: none"> • Adds that all interstate placements of children must be made in compliance with the Interstate Compact on the Placement of Children (ICPC or Compact), as described in ICPC Policy Chapter E, for adoption placements. A placement made in violation of the Compact renders the child ineligible for adoption assistance. 	
2.17.3 Adoption by Birth/Legal Parent	<ul style="list-style-type: none"> • Creates a new subsection • Adds a child’s biological or legal parent whose rights were previously terminated who later adopts their biological child is not eligible for adoption assistance. 	Programmatic Information Update
2.17.4 When an Adopted child Reenters Foster Care	<ul style="list-style-type: none"> • Creates a new subsection • Adds that when an adopted child reenters the foster care system after a finalized adoption or if the LDSS is informed the child is not residing with the adoptive parents, the LDSS must immediately inform the LDSS in the jurisdiction responsible for the issuance of the adoption assistance payments. 	Programmatic updates, adding information on federal mandate 42 U.S.C. 673 and 42 U.S.C. 671 on terminating adoption assistance and assignment of rights when children reenter foster care.
2.17.5 Adoption following kinship guardianship placement	<ul style="list-style-type: none"> • Creates a new subsection • Adds information on continued title IV-E eligibility in guardianship placements who wish to pursue adoption of children in their care. 	Program Information Update
2.17.6 Adoption following a dissolved international adoption	<p>Clarifies that a child who is not a citizen or resident of the United States (U.S.) and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for adoption assistance if the initial adoption of the child is dissolved and the child is subsequently placed in foster care through the public child welfare system. The child’s circumstances must meet the State’s special needs eligibility requirements.</p>	Program Information Update, adding federal mandates regarding SSA section 473(a) and (c) and 45 CFR 1356.41 .
2.17.7 Changes due to Adoption Disruption	<ul style="list-style-type: none"> • Adds a procedure for the LDSS notifying the Regional Consultant, 	Program Information Update

	<p>Assistance Negotiator, and guardian ad litem in the event of an adoption disruption.</p> <ul style="list-style-type: none"> • Adds that the funding source must be changed from adoption assistance to foster care effective the date of placement disruption and the LDSS must follow procedures for placing a child as set forth in foster care guidance. • Adds that if when the child is subsequently matched with another family, a new Application for Assistance with required documentation must be submitted, a new Adoption Assistance Agreement must be negotiated and a new Adoption case must be opened. • Adds the LDSS must update the child welfare information system by ending the funding in the adoption assistance case and terminating the adoption assistance, documenting the event in the case contacts and closing the case due to <i>Adoption Disruption</i>. 	
<p>2.17.9 Death of Adoptive Parents</p>	<ul style="list-style-type: none"> • Creates a new subsection • Adds information regarding terminating the active Adoption Assistance Agreement in the event of death of the adoptive parents. 	<p>Program Information Update, adding federal mandate 42 U.S.C. 673 on terminating adoption assistance agreements when adoptive parents are deceased and 42 U.S.C. 471 on background check requirements for the new adoptive parents.</p>
<p>2.18 Interstate Compact on Adoption and Medical Assistance (ICAMA)</p>	<ul style="list-style-type: none"> • Creates a new subsection • Explains LDSS responsibility for providing medical care and financial support from the date a child is placed out of the state until adoption finalization. • Explains Medicaid Cobra Reciprocity. • Provides the process for establishing Medicaid for adoptive children moving to other states. 	<p>Program Information Update, adding federal mandate 42 U.S.C. §1396a (10)(A)(i)(I) regarding state Medicaid requirements.</p>

<p>2.19.1 Criteria for Continuing Beyond 18th Birthday</p>	<p>Adds information for when youth are no longer cooperating or participating in educational or therapeutic services.</p>	<p>Program Information Update, clarifying federal mandate 42 U.S.C. 675, allowing adoption assistance payments to resume if a youth meets criteria at a later time.</p>
<p>2.19.2 Fostering Futures Eligibility Criteria</p>	<p>Clarifies that the youth does not have to be currently receiving or seeking medical treatment under Fostering Futures program eligibility requirements.</p>	<p>Program Information Update, added federal mandate on P.L. 110-351, regarding fostering futures eligibility.</p>
<p>Section 4: Post Adoption Services</p>		
<p>Section 4: Post Adoption Services</p>	<p>Due to various sections and subsections being relocated and/or collapsed, or new heading titles being added within the Post Adoption Section, the numbering sequence has changed.</p>	<p>Programmatic Information Updates</p>
<p>4.1 Introduction</p>	<p>Adds a subsection; providing a framework for providing post adoption services.</p>	<p>Programmatic Information Updates</p>
<p>4.2 Post Adoption Support and Preservation</p>	<p>Adds a subsection; discussing the ongoing needs children and families have once adoptions have finalized.</p>	<p>Programmatic Information Updates</p>
<p>4.3 Types of Supportive Services</p>	<p>Describes several types of service models available for post adoption.</p>	<p>Programmatic Information Updates</p>
<p>4.3.2 Post-Adoption Consortium</p>	<p>Creates a new subsection adding information on the Post Adoption Consortium.</p>	<p>Programmatic Information Updates</p>
<p>4.3.3 Prevention Services</p>	<p>Creates a new subsection adding information on Prevention Services.</p>	<p>Programmatic Information Updates</p>
<p>4.3.4 In-Home Services</p>	<p>Creates a new subsection adding information on In-Home Services.</p>	<p>Programmatic Information Updates</p>
<p>4.3.5 Promoting Safe and Stable Families <i>Programmatic Information Updates</i></p>	<p>Creates a new subsection adding information on Promoting Safe and Stable Families.</p>	<p>Programmatic Information Updates</p>
<p>4.3.6 Children’s Services Act</p>	<p>Creates a new subsection adding information on Children’s Services Act.</p>	<p>Programmatic Information Updates</p>
<p>4.3.7 Funding Special Services</p>	<ul style="list-style-type: none"> • Creates a new subsection, adding information on funding requests related to special services. • Limits new special service requests, including continuations of current requests to a maximum of two years. 	<p>Programmatic Information Updates, made as part of a workgroup on special service payments.</p>

Commissioner Guidance Document Transmittal

4.4.4 Child Care	Changes the requirement from full or part time child care to an age based requirement.	Programmatic Information Updates, made as part of a workgroup on special service payments.
4.4.4.1 Maintenance Funded Child Care	<ul style="list-style-type: none"> • Increases the age range from 0 - 4 to 0 – 6, (or kindergarten enrollment, whichever is sooner) for the \$600 monthly supplemental rate. • The monthly supplemental payment rate cannot exceed \$300 for children 7 – 12 years of age. • Adds the supplemental rate is based on the child’s age and family need, not the child’s school instructional modality (i.e. virtual or in-person learning). • Adds language allowing adoptive parents to continue receiving child care funding if they lose employment or their educational or training program ends. The funding can be continued for a maximum of six months. 	Programmatic Information Updates, made as part of a workgroup on special service payments.
4.4.4.2 Special Services Funded Child Care	<ul style="list-style-type: none"> • Clarifies what special needs constitute special services child care. • Adds that if the child’s needs can be met in a regular child care setting then maintenance funded child care must be approved. • Adds an exception to address cases where the child is eligible to receive specialized child care and there is no approved licensed therapeutic provider available or the provider is unable to meet the child’s needs due to age restrictions. 	Programmatic Information Updates, made as part of a workgroup on special service payments.
4.4.5.3 Negotiating Psychiatric Treatment Services	<ul style="list-style-type: none"> • Adds that when residential placement is requested and the adoptive parents are receiving an enhanced maintenance payment for providing additional daily support and supervision, the enhanced maintenance payment will be suspended until the child returns home from the residential placement. 	Programmatic Information Updates, made as part of a workgroup on special service payments.

Commissioner Guidance Document Transmittal

<p>4.5 Providing Post-Adoption Services</p>	<ul style="list-style-type: none"> • Adds the LDSS must provide to and review with the adoptive parent the Full Disclosure Checklist for Adoptive Families, to ensure they have been properly prepared for adopting a child from foster care and are aware of post adoption supports and services. • Adds that all youth adopted from Virginia’s foster care system, age 16 or older, with a special need identified on an Adoption Assistance Agreement must be provided with the Proof of Foster Care – Special Needs Adoption form. 	<p>Programmatic Information Updates</p>
<p>4.5.1 LDSS Responsibilities</p>	<p>Identifies LDSS Responsibilities to families after the adoption finalizes.</p>	<p>Programmatic Information Updates</p>
<p>4.5.3 Assessment</p>	<p>Adds a process for assessing families who are in need of post-adoption services.</p>	<p>Programmatic Information Updates</p>
<p>4.7 Postsecondary Education and Training</p>	<p>Adds a subsection on resources that will help to defray the post-secondary educational cost.</p> <p>Added additional subsections:</p> <ul style="list-style-type: none"> • 4.7.1 Education Training Voucher Program • Foster My Future / Chafee Services • Independent Living Services (IL) • Defraying the Cost of College 	<p>Programmatic Information Updates</p>
<p>4.8 Renegotiating Adoption Assistance</p>	<p>Provides examples of when Adoption Assistance Agreements can be renegotiated.</p>	<p>Programmatic Information Updates</p>
<p>4.10.1 Role of the LDSS Prior Adoption Dissolution</p>	<p>Adds the team must consider what services may salvage the adoption, supports the family may need and if the relinquishment of the child directly to the LDSS would be most appropriate, to consider placement with all immediate relatives.</p>	<p>Programmatic Information Updates.</p>
<p>Section 5 Adoption Disclosure</p>		
<p>5.1 Introduction</p>	<ul style="list-style-type: none"> • Adds a description for Adoption Disclosure: Adoption Disclosure is defined as the release of an official copy of the contents contained in the sealed adoption case file. • Clarifies in addition to providing disclosure services, the Department, 	

Commissioner Guidance Document Transmittal

	through CPAs acting as confidential intermediaries, also provide search and reunion services and can seek to obtain critical family medical information.	
5.2 Confidentiality	Adds a section on confidentiality of adoption records.	Programmatic Information Updates
5.3 Types of Information Available for Disclosure	<ul style="list-style-type: none"> • Gives a description of both identifying and non-identifying information. • Adds a list of important ideas to remember when conducting a search. 	Programmatic Information Updates
5.3.3 Special Types of Non-Identifying Information	Adds a third type of “special type” of non-identifying information that can be requested – medical information requested from a birth parent.	Programmatic Information Updates
5.3.3.1 Request for Updated Family Medical History Only	Adds a process for adoptees to be able to request family medical information to be updated without going through a legal process.	Programmatic Information Updates
5.5 Search and Reunion Services	Creates a subsection adding a description for Search and Reunion Services.	Programmatic Information Updates
5.6.3.1 Overdue Disclosure Cases	Adds a subsection for processing overdue cases.	Programmatic Information Updates
5.7.1 Releasing Non-Identifying	<ul style="list-style-type: none"> • Changes the requirement from having to pick documents up in person to permitting certified restricted delivery for non-identifying information. • Maintains the option, if the additional support is needed, for the applicant to receive non-identifying information from a mental health professional or social services agency. 	Programmatic Information Updates
Section 6 Non-Agency Placement Adoptions		
6.4 Stepparent Adoptions	Expands stepparent adoption provisions adding persons with legitimate interest to the section.	2021 Legislative Updates – SB1321 Expanding Stepparent Adoption
6.5.1 Specifics for Adult Adoption	Changes the requirements for conducting a Report of Investigation from the circuit court “shall” order to “may at its discretion and based on good cause, eliminate the requirement” to complete the Report of Investigation.	2021 Legislative Updates – SB1957 Giving the circuit court discretion to require a Report of Investigation in adult adoptions

Commissioner Guidance Document Transmittal

Questions related to adoption assistance should be directed to the Regional Assistance Negotiator:

Martha Patrick, Central Region, 804-221-5355, martha.patrick@dss.virginia.gov
Shelly Latoski, Eastern Region, 757-298-3586, shelly.latoski@dss.virginia.gov
Krista Deford, Piedmont, 434-221-7401, krista.deford@dss.virginia.gov
Kimberly Busch, Northern, 804-291-8447, k.busch@dss.virginia.gov
Christine Blair, Western, 276-274-3811, Christine.blair@dss.virginia.gov

Contact your Regional Permanency Practice Consultant for all other transmittal questions:

Central Region

Lisa Tully, 804- 840-4099, Lisa.Tully@dss.virginia.gov
Latisha Kidd, 276-628-3417, latisha.kidd@dss.virginia.gov
Alisha Hunt, 804-662-9743, a.hunt@dss.virginia.gov

Eastern Region

Gayle Brown, 757- 985-4944, Gayle1.Brown@dss.virginia.gov
Emily Lowe, 757-636-0052, e.lowe@dss.virginia.gov
Ashley Lipscomb, Ashley1.Lipscomb@dss.virginia.gov

Northern Region

Sarah Gilbert, 540-454-7786, S.Gilbert@dss.virginia.gov
Tara Gilbert, 540-359-1711, tara.gilbert@dss.virginia.gov
Jessica Cortes, 540-680-9108, j.cortes@dss.virginia.gov

Piedmont Region

Dawn Wilson, 540-580-4121, Dawn.M.Wilson@dss.virginia.gov
Tiffany Ray, 540-520-3227, tiffany.ray@dss.virginia.gov
Ali Bell, 540-988-3800, ali.bell@dss.virginia.gov

Western Region

Heather Lewis Owens, 276-525-0446, H.Lewis@dss.virginia.gov
Latisha Kidd, 276-608-0367, latisha.kidd@dss.virginia.gov
Jeannie Adams, 276-393-9564, jeanniem.adams@dss.virginia.gov

S. Duke Storen
Commissioner

2

Adoption Assistance

TABLE OF CONTENTS

2.1	Introduction	5
2.2	Questions and Clarification	5
2.3	Outcomes	5
2.4	Promoting Adoption Assistance	6
2.4.1	Adoption and Legal Guardianship Incentive Funds	6
2.5	Adoption Assistance Eligibility	7
2.5.1	Special Needs Eligibility	7
2.5.2	Additional Eligibility Criteria	10
2.5.2.1	Child's Age	10
2.5.2.2	Citizenship	10
2.5.2.3	Adoptive Parents Background Checks	11
2.5.3	Title IV-E Adoption Assistance	12
2.5.3.1	Applicable Child	12
2.5.3.2	Non Applicable Child	14
2.5.4	State Adoption Assistance	16
2.5.4.1	Before the Adoption is Finalized	16
2.5.4.2	After the Adoption is Finalized	17
2.6	Types of Adoption Assistance	17
2.6.1	Non-Recurring Adoption Expenses	18
2.6.2	Basic Maintenance Payments	19
2.6.3	Enhanced Maintenance Payments	19
2.6.3.1	Administering the Virginia Enhanced Maintenance Tool (VEMAT)	20
2.6.4	Special Service Payments	21
2.6.4.1	Special Service Eligibility Criteria	23
2.6.4.2	Terminating Special Service Payments	24
2.6.4.3	Services that are Not Approved for Special Services Funding	24

2.7	<i>Medical Coverage</i>	25
2.7.1	<i>Title IV-E Medicaid</i>	25
2.7.2	<i>Virginia State Medicaid Assistance</i>	25
2.7.3	<i>Medicaid Ineligible</i>	26
2.7.4	<i>Private Health Insurance</i>	27
2.8	<i>Supplemental Security Insurance and Adoption Assistance</i>	27
2.8.1	<i>Social Security and an Applicable Child</i>	28
2.8.2	<i>Social Security and State Adoption Assistance</i>	28
2.8.3	<i>Social Security and the Non-Applicable Child</i>	28
2.9	<i>LCPA, Independent, International, Parental Placement Adoption</i>	29
2.9.1	<i>Licensed Child Placing Agencies (LCPA) Adoptions</i>	29
2.9.2	<i>Independent Adoptions</i>	31
2.9.3	<i>International Adoptions</i>	32
2.9.4	<i>Parental Placements</i>	32
2.10	<i>Tax Benefits for Adopting</i>	32
2.11	<i>Documenting Adoption Assistance</i>	33
2.11.1	<i>Adoption Case Contacts</i>	34
2.11.2	<i>Adoption Assistance Screen</i>	34
2.11.3	<i>Residential Screen</i>	37
2.12	<i>Adoption Assistance Application</i>	37
2.12.1	<i>Review the Application and Notice of Receipt</i>	39
2.13	<i>Adoption Assistance Agreement</i>	Error! Bookmark not defined.
2.13.1	<i>Executing the Agreement</i>	42
2.13.1.1	<i>When the LDSS Fails to Execute the Agreement Timely</i>	42
2.13.1.2	<i>Non-Recurring Adoption Expenses Only</i>	43
2.13.1.3	<i>Deferring Adoption Assistance</i>	43
2.14	<i>Negotiating Adoption Assistance</i>	44
2.14.1	<i>Means Test</i>	46
2.14.2	<i>Responsibilities of the LDSS</i>	46
2.14.3	<i>Considerations During Negotiations</i>	47
2.14.4	<i>Assessing Resources to Defray Costs</i>	47
2.14.5	<i>Appealing the Negotiation</i>	48
2.15	<i>Annual Certification of Adoption Assistance</i>	48

2.15.1	Re-determination / Review	49
2.15.2	Suspended Adoption Assistance	50
2.15.3	School Attendance.....	50
2.16	Terminating Adoption Assistance	51
2.16.1	Reasons for Terminating Adoption Assistance	52
2.16.2	When Adoptive Parents Fail to Provide Financial Support.....	53
2.16.3	Timelines for Terminating Assistance	54
2.17	Special Adoption Considerations	54
2.17.1	Therapeutic Case Management Services.....	54
2.17.2	Interstate Adoption and Adoption Assistance	55
2.17.3	Adoption by Birth/Legal Parent	55
2.17.4	When an Adopted Child Re-Enters Foster Care.....	55
2.17.5	Adoption Following Kinship Guardianship Placement	56
2.17.6	Adoption Following a Dissolved International Adoption	56
2.17.7	Changes Due to Adoption Disruption	57
2.17.8	Changes Due to Adoption Dissolution.....	57
2.17.9	Death of Adoptive Parents	57
2.17.9.1	LDSS Actions When Adoptive Parents Die	58
2.18	Interstate Compact on Adoption and Medical Assistance (ICAMA).....	59
2.19	Extending Adoption Assistance Past 18	61
2.19.1	Criteria for Continuing Beyond 18th Birthday.....	61
2.19.2	Fostering Futures Eligibility Criteria	63
2.19.2.1	Documentation Required for Fostering Futures Eligibility.....	64
2.19.2.2	Fostering Futures Addendum	65
2.20	Payments and Services	65
2.20.1	Beginning Services and Payments.....	66
2.20.2	Reconciling Foster Care Payment Records.....	67
2.20.3	Making and Reporting Maintenance Payments.....	67
2.20.4	Making and Reporting Non-Recurring Expense Payments.....	68
2.20.5	Making and Reporting Special Service Payments	69
2.20.6	Making and Reporting Fostering Futures Payments	70
2.21	Maintaining Responsibilities	70
2.21.1	Responsibilities of Adoptive Parents.....	70

2.21.1.1	Receiving Enhanced Maintenance Prior to Finalization	72
2.21.2	Responsibilities of LDSS Managing Adoption Assistance Case.....	72
2.21.2.1	Paying Enhanced Maintenance Prior to Finalization	74
2.21.3	Responsibilities of LDSS Where Adoptive Parents Reside	75
2.21.4	Responsibilities of LDSS When Abuse or Neglect is Suspected	77
2.22	Establishing a Case Record	77
2.23	Appeals and Fair Hearings	78
2.23.1	Retaining Title IV-E Eligibility After Finalization	78
2.23.2	Timeframes and Filing Requests for Appeals	79
2.23.3	Validating the Appeal.....	79
2.23.4	Summary of Facts	80
2.23.5	Administrative Hearing	81
2.23.6	Withdrawal Statement.....	82
2.23.7	Appeal to the Circuit Court.....	83
2.23.8	Filing a Complaint of Discrimination.....	83
2.24	Legal Excerpts and Child Welfare Policy Manual.....	84
2.24.1	Adoption Incentives and Promoting Adoption Assistance.....	84
2.24.2	Adoption Tax Credit.....	84
2.24.3	Approvals of Prospective Adoptive Parents	84
2.24.4	Extension of Medicaid Coverage.....	84
2.24.5	Non-Recurring Expenses	84
2.24.6	Race and Ethnicity	84
2.24.7	Special Needs Adoptions	85
2.24.8	State Funded Adoption Assistance.....	85
2.24.9	Terminating Adoption Assistance.....	85

2

Adoption Assistance

2.1 Introduction

The purpose of adoption assistance is to facilitate adoption placements and ensure permanency for children with special needs (§ [63.2-1300](#)). The Adoption Assistance program provides medical and financial assistance for the benefit of children found eligible due to their special needs. Adoption assistance is not intended to cover the full cost of raising children; rather, it supplements the resources of the adoptive parents. Children with special needs often have experienced abuse and neglect and significant losses and disruptions in their lives. These traumatic events increase their risk for developmental, physical, emotional, and behavioral challenges, making adoption unlikely within a reasonable time without assistance.

Special needs are defined in terms of a child's age, membership in a sibling group, membership in a minority group, a medical condition, or physical, mental, or emotional disability. The specifics of these factors are set forth in [Section 2.5.1. Special Needs Eligibility](#). These special needs must be those which, it is reasonable to conclude, preclude the child's placement with their adoptive parents without such assistance.

2.2 Questions and Clarification

Despite every effort to be clear and cover all situations, questions may arise for a family services specialist (FSS) regarding policy or procedure for a particular case. FSS should discuss any questions or concerns about appropriate actions to take with their supervisor. If additional assistance is needed, the supervisor should consult with their Regional Permanency Practice Consultant, Assistance Negotiator, and City Attorney for guidance.

2.3 Outcomes

LDSS must strive to achieve the following permanency outcomes required in the federal Child and Family Services Review:

- Children will have permanency and stability in their living situations.
- Increase the percentage of children adopted based on all children in foster care who have the goal of adoption and a final order terminating parental rights.
- Increase the timeliness of adoptions.

2.4 Promoting Adoption Assistance

Federal regulation [45 CFR 1356.40\(f\)](#) states the IV-E Adoption Assistance Program is to be actively promoted by the Division of Family Services, all of its local departments of social services (LDSS) offices, and any licensed child-placing agency (LCPA) involved in the adoption of a child with special needs. The Virginia Department of Social Services (VDSS), LDSS, and LCPA agencies are required to provide information about the Adoption Assistance program and its benefits to all adoptive parents. This information must be given during the adoption assessment, the family's pre-service training, the family preparation assessment, and when a child with special needs is being presented for adoption placement.

In addition to providing information about the program, the LDSS must explain to the adoptive parent how to apply for adoption assistance. Because adoption assistance is an entitlement program, the LDSS must, whenever requested, provide the opportunity to all adoptive parents to complete and submit an [Application for Adoption Assistance](#). It is vital to inform the adoptive parent that, while not every child will be found eligible under the program's guidelines, it is their right to apply.

If the adoptive parent was not informed about the adoption assistance program or was not allowed to apply for adoption assistance prior to the finalization of the adoption, that could provide the basis for an administrative appeal. If the child is determined to be eligible following an administrative appeal, the LDSS may be required to pay the child's negotiated Adoption Assistance Agreement rates retroactively to the beginning of the time when the child would have been initially found eligible. See [2.23 Appeals and Fair Hearings](#) for additional information.

2.4.1 Adoption and Legal Guardianship Incentive Funds

The Adoption and Legal Guardianship Incentive Payments program (formerly called the Adoption Incentive Payments program) recognizes improved performance in helping children and youth in foster care find permanent homes through adoption and legal guardianship. The program was originally established as part of the [Adoption and Safe Families Act of 1997](#).

Adoption Incentive Funds are calculated and awarded to states based on the United States Health and Human Services, Administration for Children and Families, and

Children's Bureau (HHS/ACF/CB) review of Adoption and Foster Care Analysis and Reporting System (AFCARS) data.

Incentive funds have been used to support the following activities:

- *The purchase of educational training materials for prospective and current adoptive families and to establish an LDSS library with pamphlets, books, and videos related to adoption and post-adoption services/supports;*
- *To support National Adoption Month activities, such as advertisements to recruit foster and adoptive families, nominal gifts for adoptive families, celebrations of finalized adoptions with an emphasis on pre-adolescent and youth adoptions, innovative programs to increase teen, older youth and sibling group adoptions of youth in care more than 24 months who are legally free for adoption.*
- *The purchase of services of a credentialed speaker who specializes in post-adoption services and supports (must include the topic and audience);*
- *Creating a post-adoption support group for adoptees or adoptive parents.*

When adoption incentive funds are awarded, the focus of all activities must support the timely finalization of adoptions.

2.5 Adoption Assistance Eligibility

Under federal and state law, adoption assistance may be provided to families who would not otherwise be able to offer an adoptive home to a child with special needs due to financial and medical needs.

To determine if a child is eligible for adoption assistance, the LDSS must use the [Virginia Adoption Assistance Screening Tool](#). LDSS are encouraged to seek guidance, as needed, from their Regional Assistance Negotiator in completing the tool. If, upon submission, the Regional Assistance Negotiator determines the [Adoption Assistance Screening Tool](#) has been completed incorrectly, the tool will be returned to the LDSS to be corrected. The LDSS will have 10 days to resubmit a correct tool to the Assistance Negotiator before the [Referral for Negotiation](#) will be denied. See Section [2.13 Negotiating Adoption Assistance](#) for steps on this process.

2.5.1 Special Needs Eligibility

A child with special needs is defined by [§473\(c\) of the Social Security Act](#), Social Security Act, [Title IV](#), [§ 473 \(a\)\(1\)\(A\)](#), and the Code of Virginia [§ 63.2-1300](#). There are

three parts to this determination and all three must be met to be eligible for any form of adoption assistance:

- The court must have determined the child cannot or should not be returned to the home of their parents, through:
 - A termination of parental rights (TPR) proceeding *and subsequent TPR order*.
 - A Temporary Entrustment Agreement and evidence of a title IV-E foster care payment made on behalf of the child.
 - A Permanent Entrustment Agreement with an LDSS or LCPA meeting each of the conditions below:
 - A petition was filed to remove the child from home within 180 *calendar* days of the time the child lived with their specified relative, and
 - A subsequent judicial order was made, and
 - That order contained a *finding* that to remain in the home was contrary to the child's welfare.
- The child must meet any one of the following criteria:
 - Has a physical, mental, or emotional condition existing prior to adoption.

Criteria must be documented by a qualified licensed professional, who is licensed by a relevant medical, psychological, and or diagnostic assessment board.

- Has a hereditary tendency, congenital problem, or birth injury leading to substantial risk of future disability.

Criteria must be documented in the child's birth records and recent medical records (within a year), and the birth parent's medical history.

If one of these three conditions is the child's sole identified special need, (including substance exposure) and there is no evidence the child currently has a related disability, the adoptive parent and the LDSS must enter into a Conditional Adoption Assistance Agreement, with a zero dollar basic and enhancement maintenance payment.

Executing a Conditional Adoption Assistance Agreement preserves the child's title IV-E eligibility status and authorizes the adoptive parent to receive Medicaid. A Conditional Adoption Assistance Agreement also

allows the adoptive parents to request adoption assistance payments should the child's disability manifest in the future. At that time, the child may receive basic maintenance and funding for special services consistent with applicable guidance. See [Section 2.13.1.2](#) for additional information on Conditional Adoption Assistance Agreements and *FUSION* page, [Adoption Assistance](#) for more details on hereditary, congenital, and birth injury examples.

- Is a member of a minority group based on racial, multi-racial, or ethnic heritage.
- Is a member of a sibling group of two or more children placed in the same home for the purpose of adoption.
 - For any child in a sibling group being placed together to be eligible for adoption assistance, the sibling in the group who satisfies the age requirement must also meet the [Applicable Child](#) or the [Non-Applicable Child](#) criteria. If that child does not also meet one of those additional eligibility criteria, then he or she cannot be the “qualifier” for the other sibling(s) because the child is not eligible for adoption assistance in their own right. Each sibling in the group must also individually meet the Applicable Child or the Non-Applicable requirement to qualify for adoption assistance.
 - A child does need to be placed in the same home at the same time as the other siblings to be eligible for adoption assistance based on sibling group membership. For example, two eligible siblings may be placed together, then a third may be placed in the same home with them eight months later for adoption. This third sibling also meets a specific condition or factor requirement for the special needs definition on the basis of sibling group membership. If this third sibling also meets the Applicable Child or Non-Applicable Child eligibility requirements, that child is also eligible for adoption assistance.
- Is age six or older and has been in foster care for 18 months or longer.
- Meets all medical or disability eligibility requirements of the Social Security Income (SSI) program.
- The LDSS must determine that reasonable, but unsuccessful, efforts to place the child with appropriate adoptive parents without providing adoption assistance have been made, unless it is contrary to the child's best interests due to so

- The search for adoptive parents must be documented in the adoption case record and the child welfare documentation system and should include the following:
 - A discussion of potential adoptive parents at a regional adoption agency exchange meeting, or
 - Registration of the child on the Adoption Resource Exchange of VA (AREVA); or
 - *The child is being placed with a relative for the purpose of adoption; or*
 - The child has developed significant emotional ties with the adoptive parent when the child was placed while in foster care and in the home for at least 18 months.

All three parts of the special needs determined must be met before the child is considered eligible to receive any type of adoption assistance. The LDSS must document in the child's adoption assistance record, in the child welfare information system, and, if found eligible, on the Adoption Assistance Agreement, each condition identified, making it unlikely the child would be adopted within a reasonable time without adoption assistance. An agreement must be executed for every eligible child unless the adoptive parents decline in writing.

Funding for basic maintenance, enhanced maintenance, and special service payments must be directly related to the child's special need, as identified on the original Adoption Assistance Agreement or Addendum to the Adoption Assistance Agreement forms.

2.5.2 Additional Eligibility Criteria

In addition to the child's Special Needs Criteria, for both title IV-E and state-funded cases, the LDSS must also make determinations regarding age, citizenship and check the backgrounds of the prospective adoptive parents.

2.5.2.1 Child's Age

For both title IV-E and state-funded cases and applications submitted before the final order of adoption are entered by the court, the child must be under age 18 when the petition for adoption is filed. For applications submitted after the final order of adoption is entered by the court, the child must be under age 18 when applying for adoption assistance.

2.5.2.2 Citizenship

To be eligible for adoption assistance, children must have the status of a:

- U.S. citizen; or
- Qualified alien (whether or not the child/youth has been a qualified alien for five years) is eligible for title IV-E adoption assistance if they are
 - A child with special needs; and
 - Eligible under one of the four pathways in Subsections [2.5.3](#) or [2.5.4](#)
 - Placed with adoptive parents who are U.S. citizens or have a qualified alien status:
 - If the child is placed with an adoptive parent who is a citizen or has a qualified alien status, a child with a qualified alien status is exempt from the five-year bar and may be eligible for title IV-E adoption assistance if other program requirements are met.
 - If placed with an adoptive parent who has an undocumented status or holds a non-qualified alien status, a child who holds a qualified alien status and is subject to the five-year bar must have completed five years as a permanent resident as well meet other program requirements to be eligible for title IV-E adoption assistance.

See FUSION [Adoption Assistance](#) for additional information on verifying citizenship and qualified alien status.

2.5.2.3 Adoptive Parents Background Checks

Before any adoption assistance payments can be made for an eligible child, the following background checks must be secured for prospective adoptive families:

- Fingerprint-based check of the National Criminal Information Database;
- A check of the Child Abuse and Neglect Registry in which the prospective adoptive parents and other adults living in the adoptive home have resided in the last five years.

The results of the required criminal background checks show no record of a felony conviction for a crime described in [42 USC 671\(a\)\(20\)\(A\)](#) that would disqualify the adoptive parent from receiving adoption assistance payments under [42 USC 673](#).

2.5.3 Title IV-E Adoption Assistance

To be eligible for Title IV-E adoption assistance, the child must meet the definition of a child with special needs and meet either the criteria set forth as an applicable child or a non-applicable child.

2.5.3.1 Applicable Child

The following outlines the eligibility requirements for an applicable child:

- The child must be older than two years or turn two years old during the federal fiscal year (FFY) that the Adoption Assistance Agreement is executed. The FFY begins October 1st and ends September 30th; or
- The child's sibling is an applicable child and is placed in the same perspective adoptive home, *for the purpose of adoption*, of their siblings.

The applicable child must also meet one of the following categorical eligibility requirements to be eligible for title IV-E adoption assistance:

- Judicial determination criteria

The child, at the time of the initiation of adoption proceedings, must have been in the care of a public or licensed private child-placing agency pursuant to:

- an involuntary removal order. The first court order that sanctions the removal of the child from their home must contain a finding that remaining in the home is "contrary to the welfare of the child" or that "removal from the home is in the best interest of the child"; or
- a Temporary or Permanent Entrustment Agreement. The subsequent court order must contain a finding that remaining in the home is "contrary to the welfare of the child" or that "removal from the home is in the best interest of the child."

The use of Nunc Pro Tunc orders to pre-date the performance of an act to a time before it occurred is not allowed for the purpose of title IV-E. Therefore, if the required judicial determination is not included in the appropriate court order, a certified transcript of the court proceedings is the only other acceptable documentation that may be used to verify the required judicial determination was made.

- The child was eligible in a prior adoption:

Once a child has been determined eligible for title IV-E adoption assistance, the child retains this eligibility. The [Adoption and Safe](#)

[Families Act of 1997](#) amended Section [473\(a\)\(2\)](#) of the Social Security Act to allow for the continuation of title IV-E eligibility for the child. The child retains title IV-E adoption assistance eligibility if the child was available for adoption on or after October 1, 1997, and the child's prior adoption ended for one of the following reasons:

- The prior adoption was dissolved, and the parental rights of the adoptive parents were terminated.
- The prior adoption ended due to the death of the adoptive parents, leaving the child with no adoptive parent.

Because the Adoption Assistance Agreement with the adoptive parent terminates in the event of an adoption termination or the death of adoptive parents, no further adoption assistance benefits can be obtained on behalf of the child following termination.

In the event of a subsequent adoptive placement, the new adoptive parents of the child eligible from a prior adoption may receive adoption benefits for the child provided the Adoption Assistance Agreement has been negotiated with the new adoptive parents and signed by each parent the LDSS Director.

- If the child is available for adoption because the prior adoption has been dissolved or the child's adoptive parents have died. *There is no requirement for the child to reenter foster care to maintain IV-E eligibility status.*

In this instance, the child may retain eligibility for adoption assistance payments in a subsequent adoption. The LDSS only needs to determine whether the child continues to meet the definition of special needs to be eligible for adoption assistance.

The adoptive parents must also meet the background check requirements to receive adoption assistance.

- **The child meets all medical eligibility requirements of SSI eligibility.**

The determination must be established no later than at the time the adoption petition is filed.

Note: An applicable child does not have to meet the needs-based requirement for SSI.

- **Minor parent eligibility**

The child lives with their minor parent in foster care, and the foster parent receives title IV-E foster care maintenance payments for the child and infant.

- There are no other eligibility criteria that must be met in order for a child to be eligible for title IV-E adoption assistance if the child's eligibility is based on their minor parent's receipt of title IV-E foster care payments while placed with their minor parent in foster care.
- There is no requirement that a child must have been removed from their home pursuant to a Permanent Entrustment Agreement or as a result of a judicial determination.
- If the child and minor parent have been separated prior to the filing of the adoption petition, the child's eligibility for title IV-E adoption assistance must then be determined based on the child's current and individual circumstance.

2.5.3.2 Non Applicable Child

To establish title IV-E for a non-applicable child with special needs, only one of the four criteria below must be met:

- **Aid to Families and Dependent Children (AFDC) Eligibility**

The child must be found eligible for the AFDC program at the time of removal (when the initial Title IV-E determination is made). For the purpose of this guidance, AFDC refers to the AFDC program that was in effect in July of 1996.

- **For Court Placed Children:** At the initial title IV-E foster care determination, if the child was title IV-E eligible, the child is determined eligible as a part of that process.

In the first court order that sanctions the removal of the child from their home, there must contain a finding that continuation in the home is "contrary to the welfare" of the child or that removal from the home is "in the best interest of the child." This documentation is used to approve title IV-E foster care eligibility. As a result, the title IV-E Foster Care Notice of Action form showing title IV-E "Categorically Eligible" is used to verify AFDC eligibility.

- **Reasonable Efforts Language**

If the child entered foster care through a court ordered removal and met all the AFDC requirements, at the time of removal, but

was found ineligible for title IV-E in foster care for the sole reason that the initial court order did not contain the “Reasonable Efforts” language, they are considered to have met the AFDC requirement for adoption assistance. A copy of the title IV-E Foster Care Notice of Action, citing this as the reason for denial, must be included in the Adoption Assistance Case and documented in the child welfare information system.

- **For Permanently Entrusted Children:** A child placed pursuant to a Permanent Entrustment Agreement must have received a title IV-E Foster Care maintenance payment to be eligible for title IV-E adoption assistance.
- **Child was eligible in a prior adoption**
 - The child was determined eligible for adoption assistance in a prior adoption, and
 - Is available for adoption because the prior adoption has been *dissolved or the child’s adoptive parents have died. There is no requirement for the child to reenter foster care to maintain IV-E eligibility.*
 - *In this instance, the child may retain eligibility for adoption assistance payments in a subsequent adoption. The LDSS only needs to determine if the child continues to meet the definition of special needs to be eligible for adoption assistance.*
- **The child meets all medical eligibility requirements of SSI eligibility**

The determination must be established no later than at the time the adoption petition is filed.

Note: An applicable child does not have to meet the needs-based requirement for SSI.
- **Minor parent eligibility**

The child lives with their minor parent who is foster care and is receiving Title IV-E foster care maintenance payments for themselves and the child.

 - There are no other eligibility criteria that must be met in order for a child to be eligible for Title IV-E adoption assistance if the child’s eligibility is based on their minor parent’s receipt of Title IV-E foster care payments while placed with the their minor parent in foster care.

- There is no requirement that a child must have been removed from their home pursuant to a Permanent Entrustment Agreement or as a result of a judicial determination.
- If the child and minor parent have been separated prior to the filing of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances.

2.5.4 State Adoption Assistance

Children who do not meet the title IV-E adoption assistance eligibility requirements may be eligible for state-funded adoption assistance. To qualify for state-funded adoption assistance, the child must meet the following criteria before the finalization of the adoption:

2.5.4.1 Before the Adoption is Finalized

When the LDSS determines a child to be ineligible for Title IV-E adoption assistance, the LDSS must screen the child for State adoption assistance (§ [63.2-1301](#)).

State-funded adoption assistance payments may be provided to the adoptive parents on behalf of an adopted child that, in addition to meeting the definition of a child with special needs, age, citizenship, and background check criteria, also meets the requirements below:

- The child was in the custody of a LDSS, LCPA, or a Tribal agency at the time of the adoptive placement;
- The child has developed significant emotional ties with their foster parent while in their care for at least 12 months, the foster parent is committed to adopting the child, and state adoption assistance payments are necessary to facilitate the adoption.

State adoption assistance must be approved for the child who is eligible for adoption assistance unless the adoption parent indicates, in writing, or it is determined through negotiation that the payment is not needed ([22 VAC 40-201-161, E 1](#)).

State adoption assistance must not be approved for children adopted through parental placements. This restriction does not apply to Adoption Assistance Agreements existing prior to July 2013 (§ [63.2-1301 B 1](#)).

2.5.4.2 After the Adoption is Finalized

Adoption assistance must only be approved after the adoption is finalized when it is determined the child had a previous and ongoing condition that was present at the time of the adoption, but the condition was not diagnosed until after the adoption was finalized. Under this circumstance, the following applies:

- Initial applications for adoption assistance submitted after the finalization of the adoption are not eligible for title IV-E funding and, if approved, will only be considered for state-funded assistance.
- Adoption Assistance Agreements established after the final order of adoption has been entered by the court, will only be considered eligible to receive basic maintenance, enhanced maintenance and funding for special service payments.
- Non-recurring expenses must not be included in Adoption Assistance Agreements entered into after the final order of adoption (§ [63.2-1301 B](#)) and ([45 CFR 1356.41 b](#)).

To determine a child's eligibility for adoption assistance, after the final order of adoption has been entered by the court, the LDSS must first determine if the child meets the definition of special needs as defined in Section [2.5.1.](#), and the age and citizenship criteria as defined in Section [2.5.2](#). In addition, the child must meet each of the following three eligibility requirements below:

- The child was in the custody of a LDSS or LCPA immediately prior to the finalization of the adoption; and
- The child has a condition or disability that was present at the time of the adoption but was not diagnosed until after the adoption was finalized. *The written diagnosis must indicate that the condition was present at the time the adoption was finalized.*
- The diagnosis was made by a qualified licensed professional and received within 12 months of the date the adoptive parents submitted the Application for Assistance.

2.6 Types of Adoption Assistance

Adoption assistance payments may include title IV-E or state funded maintenance payments; *however, the payments must not exceed the foster care payment that the child would have received at the time the initial Adoption Assistance Agreement is signed ([22VAC40-201-161](#)).*

An Adoption Assistance Agreement may include basic maintenance, enhanced maintenance, funding for special service payments and non-recurring expenses. *The type of assistance the child receives must be determined by the negotiation process. See [Section 2.10 Negotiating Adoption Assistance](#) for additional information.*

2.6.1 Non-Recurring Adoption Expenses

Non-recurring adoption expenses is defined as the reasonable and necessary adoption fees, court cost, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs. These expenses must not have been incurred in violation of federal or state law, nor must they have been reimbursed from other sources or funds.

Other expenses are defined as the costs of adoption incurred by or on behalf of the adoptive parent and for which the parent carries the burden of payment, such as:

- the adoption home study (including health and psychological examinations);
- supervision of the placement before adoption;
- transportation;
- and the reasonable costs of lodging and food for the child and/or the adoptive parents when necessary to complete the adoption process.

Families may receive *reimbursement* of a one-time, non-recurring payment of up to \$2,000 for the cost associated with legally finalizing the adoption of a child with special needs, see Section [2.5.1 Special Needs Eligibility](#). Payments for non-recurring expenses must be made by the LDSS and can be paid to the adoptive parent or the service provider. ([Social Security Act, Title IV, § 473 \(a\) \(1\) \(B\) \(i\) \[42 USC 673\]](#)).

Reimbursement for non-recurring expenses may begin as soon as the adoption placement agreement and the Adoption Assistance Agreement have been signed ([22VAC40-201-161](#)).

- *Note: If the adoptive placement disrupts before the adoption is finalized, and there is a signed adoptive placement agreement, any fees the prospective adoptive parent incurred in the process of finalizing the adoption are reimbursable by title IV-E, up to \$2,000.*
- *Note: Non-recurring expenses are per child per adoptive placement. If a placement disrupts prior to finalizing and a new agreement is initiated with a new adoptive parent, the parent is entitled to receive the full \$2,000 to help facilitate the adoption.*

The LDSS should include known non-recurring payments on the Adoption Assistance Agreement. Title IV-E funds must be used to pay for all non-recurring adoption expenses for children receiving title IV-E or state adoption assistance.

2.6.2 Basic Maintenance Payments

A basic maintenance payment must be approved for a child, who is eligible for adoption assistance unless the adoptive parent indicates, or it is determined through negotiation that adoption assistance is not needed ([22 VAC 40-201-161 E 1](#)). A supplemental clothing allowance over and above the basic maintenance payment is not an allowable payment in adoption assistance and must not be considered.

- Basic maintenance payments are based on the child's age and corresponding rate as defined by foster care maintenance rates (See Chapter E. Foster Care Manual, [Section 18.1.3](#)).
- The basic maintenance rate must be automatically be increased under these two circumstances:
 - The child reaches a higher age group in the foster care basic maintenance rate chart; or
 - There is a statewide increase that is provided to help address an increased cost of living.

If, through negotiation, the adoptive parent accepts a rate that is less than the rate as defined in the foster care basic maintenance rate chart, the agreed upon payment amount must be increased by the same percentage amount used to calculate the increase in the maximum foster care maintenance payments. The LDSS will notify the adoptive parent in writing when automatic increases occur.

2.6.3 Enhanced Maintenance Payments

An enhanced maintenance payment may be paid when the child requires additional supervision and support from the adoptive parent to ensure the child's well-being and safety.

- *Assessment of a child's need for additional support and supervision is a process that is ongoing from their initial placement in foster care.*
- *If it was determined that the child's needs did not warrant additional support and supervision over the life of the foster care placement, no additional support and supervision will be paid based solely on the child being adopted.*

- *For children in LDSS custody, an enhanced maintenance payment will not be approved if the child has not received ongoing enhanced maintenance payments over the previous 12 months.*

2.6.3.1 Administering the Virginia Enhanced Maintenance Tool (VEMAT)

When the LDSS establishes that the child requires additional support and supervision based on the administration of the VEMAT, the LDSS and Assistance Negotiator must assess and negotiate an enhanced maintenance payment with the adoptive parent, unless the adoptive parent declined the assistance in writing.

The VEMAT is conducted according to the same team process as specified in Chapter E. Foster Care Manual, Section [18.2.2.3](#), with the exception being if there is no specific case manager for the family, the LDSS must ensure that the individual at the LDSS who is assigned to manage adoption assistance requests is included in the VEMAT meeting.

- *The Assistance Negotiator must only approve enhanced maintenance payments that can be supported through relevant documentation from qualified licensed professionals, that are no more than one year old.*
- *If the Assistance Negotiator determines the supporting documentation does not support the VEMAT score, the LDSS will be required to provide additional information within 10 calendar days to support the VEMAT score or administer a new VEMAT. If the requested information is not received within the 10 calendar days, the request for enhanced maintenance will be denied, and the negotiation will proceed with basic maintenance only.*
- *The LDSS must provide supporting documentation for any new VEMAT that increased the score more than four points on the tool compared to the most recent and active VEMAT score.*

Supporting documentation includes, but is not limited to, ongoing provider treatment logs, monthly and quarterly reports which demonstrate a marked increase in the child's physical, mental or emotional health and the adoptive parent's level of support and supervision due to the increase.

- A VEMAT *must not* be administered if the Adoption Assistance Agreement will be signed within six months of a prior VEMAT assessment ([22VAC40-221-20 A 5 c](#)).
- If the VEMAT is re-administered and there is a rate change, prior to signing the Adoption Assistance Agreement, the new VEMAT rate will go into effect the first day of the following month, using foster care funds (*for*

children in LDSS custody) until the Adoption Assistance Agreement is effective.

For children not in LDSS custody, the Adoption Assistance Agreement is effective once it has been signed and the petition for adoption has been filed, the first day of the following month or upon finalization of the adoption, whichever occurs first.

- The maximum allowable amount for enhanced maintenance payments is based on the child's VEMAT score. *The final payment amount is based on negotiations between the LDSS, the Assistance Negotiator, and the adoptive parent. The maximum amount remains the same for any subsequent negotiations of enhanced maintenance payments for the duration of the Adoption Assistance Agreement. As a result, the enhanced maintenance payment must only be increased if, during the previous negotiation, the adoptive parents accepted less than the maximum allowable payment.*

When the adoptive parents and the LDSS agree to time-limited enhanced maintenance payments, the LDSS must inform the adoptive parents, by certified letter, 60 calendar days before the scheduled end date of the payment that the payment is ending.

2.6.4 Special Service Payments

A special service payment is a payment that is used to meet a service need that a child has that cannot be met by the adoptive parents and is not covered under any other program or benefit for which the child would qualify. Special service payments provide financial assistance for services and treatments directly related to special needs existing before the child's adoption ([22 VAC 40-201-161- E 2](#)).

Special service payments are available to help children with unique needs due to a diagnosed medical or mental health condition or developmental delay that substantially limits a major life activity (for example: walking, speaking, breathing, working, learning, the performance of manual tasks, vision, hearing, self-care, etc.). Funding for special services must be an exception rather than the rule in Adoption Assistance Agreements.

The goal is to keep families intact by preventing adoption disruption, dissolution, and the risk of an out-of-home placement.

- Funding for special services is *always* a state-funded payment, regardless of whether the assistance agreement is a title IV-E or state agreement.
- *Unlike the basic and enhanced maintenance payment forms of adoption assistance, funding for special services does consider all of the resources the*

adoptive parent has at their disposal, including earned and unearned income and the total amount of all adoption assistance payments received ([22 VAC 40-201-161 E 2](#)).

- The LDSS and Assistance Negotiator will consider whether the adoptive parents can afford the special service (§ [63.2-1302 C3](#)). This information must be considered as one factor when assessing and negotiating the payment for the special service.

When determining whether adoptive parents can financially afford the request service, the LDSS and the adoptive parents must complete the following:

- Determine the amount of the special service;
 - Assess all income; earned and unearned;
 - Determine any remaining funds the adoptive parents have available after expenses have been paid. This amount must be considered as one factor when assessing and negotiating to fund the special service. It must not be the sole factor in assessing family circumstances ([22 VAC 40-201-161 F](#)).
- *When psychiatric residential placement is requested and has been approved, and the adoptive parents are receiving an enhanced maintenance payment for additional daily support and supervision, the enhanced maintenance payments will be suspended until the child returns home from the residential placement. Once the child transitions home, the enhanced maintenance payment will be reinstated to the total amount the child was receiving before entering residential care. If the adoptive parent does not agree to suspend the enhanced maintenance payment, funding for the residential placement must not be approved using funding for special services.*
 - *Funding for all special services, regardless of when the family entered into the original agreement, may be provided up to a maximum of \$5,000 per calendar year for the total of all approved services; not to include expenses related to psychiatric residential treatment services or daycare.*
 - *The service requested must be related to the special need identified on the original Adoption Assistance Agreement or the Addendum to an Adoption Assistance Agreement that added a new special need.*
 - *Receipt of funding for service payments while in foster care does not guarantee approval of a special service payment at the time of adoption. Only after the Assistance Negotiator has had an opportunity to review the current documentation provided in the request will it be possible to determine if funding for the requested special service will be approved.*

- *Funding for new special services will not be considered with new Adoption Assistance Agreements nor within the immediate six months after the adoption finalization. To have a special service considered as a part of a new Adoption Assistance Agreement:*
 - *The child must have been receiving the service for a minimum of six months before signing the Adoption Assistance Agreement, and*
 - *The LDSS and adoptive parent must demonstrate they have attempted to use other available resources based on the Post Adoption Services Decision Tree. When using the Post Adoption Decision Tree, the outcome should determine how the service is funded. For more information on the Post Adoption Service Decision Tree, see [Section 4 Post Adoption Services](#).*
 - *For consideration of funding using special service payments for a service previously requested and denied due to the availability of another resource, adoptive parents must show they attempted to use all resources previously identified in the Post Adoption Decision Tree.*
- *Funding for specialized therapies, such as attachment therapies, trauma-focused, etc., will not be approved at the time of adoption placement and the signing of a new Adoption Assistance Agreement or within one year of finalizing the adoption.*
- *Payment for the special service must be at the reasonable, customary, and usual rate in the child's community as determined by Medicaid; i.e., therapeutic services will be reimbursed at the Medicaid rate in the child's place of residence ([22VAC40-201-161](#)).*
- *Funding for special service payments must be approved before the adoptive parent incurs the expense or it will otherwise begin once the Adoption Assistance Agreement or Addendum is effective.*

2.6.4.1 Special Service Eligibility Criteria

All children who were:

- In the custody of an LDSS, LCPA, or tribe at the time of application; and
- Found eligible to receive ongoing title IV-E or state adoption assistance are eligible to receive funding for special services.

As with basic and enhanced maintenance payment types of adoption assistance, the adoptive parent, with help from the LDSS, must have attempted to exhaust all other resources for funding the service or treatment. For additional information

on Assessing Resources to Defray the Cost of Adoption Assistance, see FUSION [Adoption Assistance](#).

For more information on processing specific types of special services requests, see [Adoption Guidance Section 4: Post Adoption Services](#).

2.6.4.2 Terminating Special Service Payments

Funding for special service payments is time-limited. Beginning January 1, 2022, for all Adoption Assistance Agreements, regardless of their effective date and any addendums, no special service will be funded by adoption assistance for more than two years over the life of the adoption assistance case. The LDSS must terminate funding for all special services under the following conditions:

- *when the service documentation does not demonstrate that the service provided is meeting the original need for the request and it is not treating or resolving the identified issue;*
- *when the child has reached the maximum benefit from the level of care and their level of functioning has not improved despite the length of time in treatment and interventions attempted;*
- *at the agreed upon time on the Adoption Assistance Agreement.*

2.6.4.3 Services that are Not Approved for Special Services Funding

Special service payments must not be used for the following types of services and expenses:

- Legal fees and nonrecurring adoption expenses.
- Boarding schools or private school placements or expenditures.
- Placements in therapeutic foster care (TFC) Homes.
- Placement in group homes.

For more information on distinguishing residential treatment and group homes. Refer to the [DMAS](#) website for approved behavioral health providers and program levels and [Magellan of Virginia](#) for levels of community based residential services.

2.7 Medical Coverage

The family must understand the benefits and limitations of the Virginia Medicaid program. Adoptive families must be encouraged to add adoptive children to their health insurance policies to assure optimal coverage. The LDSS should inform families that their insurance will be considered primary if they choose to do so. The medical needs of a child approved for title IV-E adoption assistance are met through the Medicaid program.

The child is eligible for Virginia Medicaid as part of their Adoption Assistance Agreement ([VDSS Medical Assistance Eligibility Manual, M0310.102](#)) when the child:

- Resides in Virginia, and
- Has a title IV-E funded Adoption Assistance Agreement, or
- Has a state funded Adoption Assistance Agreement in effect that specifies the child has a special medical and rehabilitative need (also known as a special medical need)

2.7.1 Title IV-E Medicaid

Title IV-E Medicaid must be provided for all children who are eligible for title IV-E adoption assistance.

- Medicaid must be included in the Adoption Assistance Agreement.
- Medicaid eligibility continues for the child when the agreement is executed.
- The adoptive parents are not required to submit a separate Medicaid application for the child. The child is eligible whether or not the final order of adoption has been executed or a title IV-E adoption assistance payment is made on behalf of the child. As long as the Adoption Assistance Agreement is in effect, the child meets the title IV-E adoption assistance definition for Medicaid eligibility purposes ([Social Security Act, Title IV, § 473 \(b\) \[42 U.S.C. 673\]](#); [Federal Child Welfare Policy Manual, Subsection 8.2B.8 #1](#); and the [Virginia DSS Medicaid Eligibility Manual, M0310.102](#)).

2.7.2 Virginia State Medicaid Assistance

When the child is eligible for adoption assistance payments solely using state funds and the child has a special need documented on the Adoption Assistance Agreement, meeting Medicaid's definition of special medical needs (listed below), the child is eligible for Medicaid under the Special Medical Needs covered group.

In Part II, Section B, of the Adoption Assistance Agreement, the LDSS must indicate that the child has a special medical need. The adoptive family must submit a Medicaid

Application and a copy of the State funded Adoption Assistance Agreement that specifies the child's special medical or rehabilitative need. In accordance with Medicaid policy, a child with special medical needs is defined as a child who was determined unlikely to be adopted because of:

- A physical, mental, or emotional condition that existed before adoption; or
- A hereditary tendency, genetic defect, congenital problem, or birth injury leading to a substantial risk of future disability (see the [Virginia DSS Medicaid Eligibility Manual, MO310.102 2d](#)).

The child with a special medical or rehabilitative need may have, but is not limited to:

- A diagnosed medical condition that does not require immediate treatment, such as sickle-cell anemia.
- Medical or emotional conditions requiring regular medication, such as epilepsy, severe allergies, and attention deficit disorders.
- Severe visual and dental problems requiring non-routine medical or dental treatment.

The child's adoption assistance case record must contain documentation by qualified professionals of the child's special medical or rehabilitative need.

The LDSS should inform the adoptive parents that only the child's own income and resources will be counted when determining the child's eligibility for Medicaid. Therefore, the child's income from employment or SSI may impact Medicaid eligibility. For example, while the child may initially be eligible for Medicaid, if the child becomes employed or begins receiving countable income, the child may no longer be eligible. The child's countable income must not exceed the Medicaid Families and Children (F&C) 100% income limit for a single person. The income of the child's parents and siblings will not be counted. The adoptive parents must apply to the Benefit Programs Specialist as soon as possible with the LDSS, which they entered into the Adoption Assistance Agreement. The child who meets all Medicaid financial eligibility requirements after the final order of adoption continues to be eligible for Medicaid with the adoptive parents from the date the Adoption Assistance Agreement is executed. For information on Special Medical Needs Adoption Assistance, see the Virginia DSS Medicaid Eligibility Manual, [M03 Medicaid Covered Groups](#).

2.7.3 Medicaid Ineligible

When the child is eligible for adoption assistance using state funds only, and the agreement does not document that the child has a special medical or rehabilitative need, the child is not eligible for Medicaid as a part of the Adoption Assistance

Agreement. The family may apply for Medicaid and qualify under a different category outside of the adoption assistance process.

Medicaid will terminate when the adoption assistance case is closed.

2.7.4 Private Health Insurance

All adoptive parents should be advised to add their adopted child to their private health insurance within 30 days of the adoption finalization. Insurance companies are prohibited from refusing coverage because of pre-existing conditions if the child is enrolled during this period of enrollment. Private insurance does not effect Medicaid coverage.

2.8 Supplemental Security Insurance and Adoption Assistance

When the child receives Supplemental Security Insurance (SSI) payments, or it is recommended that the adoptive parents apply after the adoption is finalized, the LDSS should encourage the adoptive parents to contact a Social Security representative (1-800-772-1213) to discuss their situation. The adoptive parents may also visit the Social Security Administration (SSA) website at <http://www.socialsecurity.gov>.

The LDSS should inform the adoptive parents that they may apply for SSI payments for an eligible child and receive adoption assistance maintenance payments concurrently or obtain payments solely from one program.

If the LDSS is the payee, at the finalization of the child's adoption, the LDSS must complete the following steps:

- *Notify the adoptive parents that SSA benefits are available for the child.*
- *Obtain a signed Authorization to Release Confidential Information form from the adoptive parents, permitting the FSS to discuss the status of the adoption case with SSA.*
- *Only after obtaining authorization, notify the SSA that the adoption is finalized. Provide the name and address of the adoptive parent to the SSA so the SSA can secure a representative payee application for the adoptive parents. Inform the SSA the child is receiving either:*
 - *title IV-E adoption assistance as an applicable child and the amount of the payment; or*
 - *state funded adoption assistance and the amount of the payment; or*

- *title IV-E adoption assistance as a non-applicable child and the amount of the payment.*
- *If the adoptive parents do not wish to provide authorization, the LDSS must notify the SSA the adoption is finalized; however, due to privacy concerns, the identity of the adoptive parents cannot be released. Inform the SSA that the adoptive parents have been made aware that SSA benefits are available to the child and to contact SSA to file for those benefits. Inform the SSA the child is receiving either:*
 - *title IV-E adoption assistance as an applicable child and the amount of the payment; or*
 - *state funded adoption assistance and the amount of the payment; or*
 - *title IV-E adoption assistance as a non-applicable child and the amount of the payment.*

2.8.1 Social Security and an Applicable Child

When a child receives SSI benefits and is found eligible for adoption assistance as an applicable child, there is no dollar-for-dollar reduction in adoption assistance and SSI payments. The child may receive both simultaneously.

2.8.2 Social Security and State Adoption Assistance

When a child receives SSI benefits and is approved to receive state funded adoption assistance, there is no dollar-for-dollar reduction in adoption assistance and SSI payments. The child may receive both simultaneously.

2.8.3 Social Security and the Non-Applicable Child

When a child receives SSI benefits and is found eligible for adoption assistance as a non-applicable child, there is a dollar-for-dollar reduction in adoption assistance and SSI payments.

In determining the amount of SSI the child is entitled to receive, the SSA will count the income and resources of the adoptive parents. If these resources exceed an established maximum level, the child is no longer eligible for SSI payments.

If the income and resources of the adoptive parents do not effect the child's eligibility for SSI and the adoptive parents receive concurrent payments from both programs on behalf of the child, the SSA will reduce the SSI amount, dollar-for-dollar, for any title IV-E adoption assistance paid to the adoptive parents. In this situation, the adoptive parents may choose to:

- *Reduce the title IV-E adoption assistance payment they receive based on the amount of SSI the child is entitled to receive.*

- *Decline the basic maintenance payment and receive only SSI for the child. However, if the adoptive parents do not execute an Adoption Assistance Agreement prior to the final order of adoption, the child will no longer be eligible for title IV-E adoption assistance payments. The child also may not be eligible for state adoption assistance after the final order of adoption. The LDSS should encourage the adoptive parents to enter into an Adoption Assistance Agreement with a zero dollar payment, if the adoptive parents are not receiving other adoption assistance. This agreement allows the adoptive parents to submit an Addendum Request to the Assistance Agreement if they want to receive basic maintenance payments in the future.*
- *Receive only the adoption assistance payment and not continue SSI payments for the child. However, if the child does not receive SSI benefits for 12 months, the child is no longer eligible for SSI. The adoptive parents may reapply for SSI benefits in the future, or the child may apply for Social Security Disability Insurance (SSDI) benefits after age 18 as an adult disabled since childhood.*

The LDSS should serve as a resource for the adoptive parents on the adoption assistance program as the parents must decide what to do. There are many complexities and financial implications. The adoptive parents should discuss all aspects of combining SSI and adoption assistance with a representative from the SSA before negotiating the Adoption Assistance Agreement ([Federal Child Welfare Policy Manual, Subsection 8.4D #1](#)).

2.9 LCPA, Independent, International, Parental Placement Adoption

2.9.1 Licenced Child Placing Agencies (LCPA) Adoptions

Criteria established by the [Fostering Connections and Increasing Adoptions Act of 2008](#) have resulted in more children from LCPA's meeting eligibility requirements for adoption assistance. LCPA's depend on the LDSS to determine eligibility and provide adoption assistance to children relinquished to their custody. The determination and administration of adoption assistance benefits is the responsibility of the LDSS in the adoptive parent's locality of residence.

An LCPA that identifies a potentially eligible child and is handling the adoption may refer the child to the LDSS in the locality in which the family resides for an application for adoption assistance. The referral for adoption assistance must be made before finalization because, by federal law, title IV-E Adoption Assistance Agreements must be signed by all parties before the adoption is finalized. The LDSS will then provide; the LCPA with the LCPA Application for Adoption Assistance, or one can be obtained off the VDSS public website. The LCPA Application for Adoption Assistance requests the following information:

- *A summary of circumstances of the adoptive placement including the following:*
 - *The date the child was received by the agency;*
 - *The date of the adoptive placement;*
 - *The name, address, and telephone number of the adoptive parents; and*
 - *The date of the anticipated finalization of the adoption.*
- *A statement of the child's eligibility for Supplemental Security Income (SSI) benefits.*
- *Documentation of the voluntary relinquishment by the birth parents and the judicial determination obtained within 180 calendar days of receiving the relinquishments that it is not in the best interest of the child to be returned to the parents.*
- *Documentation of the reasonable efforts made by the LCPA to place the child in an appropriate home without providing adoption assistance or the reason it is recommended the requirement for these efforts be waived.*

Documentation of the above includes but is not limited to the following:

- *Social Security Administration notification of the child's SSI eligibility or verifications;*
 - *Copies of the voluntary relinquishments, consent to adopt, termination of parental rights for both birth parents;*
 - *A complete description of the reasonable efforts made to place the child without using adoption assistance;*
 - *Statements from a physician, or psychiatrists, licensed to practice medicine in the United States, verifying the child's current or anticipated medical condition or physical, mental, or emotional handicap, if it applies to the child;*
 - *Verification for the search of the Birth Father Registry and statement of no father having registered;*
 - *The child's birth certificate.*
- *The approved adoption home study.*
 - *National criminal history fingerprint checks for both adoptive parents must be completed. If the adoptive parents have resided out of state for the last five*

years, checks must also be performed in their previous places of residence. (These are not transferrable. The LDSS must obtain the background checks).

- *Death Certificate, if applicable.*

Within 10 calendar days of receiving an LCPA Application for Adoption Assistance, the LDSS will:

- *Contact the adoptive parents and schedule to have background checks completed for both adoptive parents.*
- *Complete the [Adoption Assistance Screening Tool](#) and obtain signatures from the adoptive parent indicating they have been made aware of their child's eligibility to receive adoption assistance. Advise the family that this is pending results from the criminal history fingerprint checks.*
- *If the child is determined not eligible for adoption assistance, notify the adoptive family and the LCPA using the [Family Services Notice of Action and Right to Appeal](#) form and indicate why.*
- *If the child is determined eligible for adoption assistance, submit the [Referral for Negotiations](#) form and packet to your Regional Assistance Negotiator within five calendar days of receiving the results of the criminal background checks.*
- *If the referral packet provided by the LCPA is incomplete, contact the agency and advise them of the additional information that is needed. Still move forward with contacting the adoptive parent and scheduling the criminal background checks. Inform both the parent and the LCPA that without the required information, the application will be denied. Send the [Family Services Notice of Action and Right to Appeal](#) form if the requested information is not received within 10 days and indicate why the application is being denied.*

2.9.2 Independent Adoptions

Under title IV-E of the Social Security Act, adoption assistance payments are permitted on behalf of children with special needs who meet the AFDC or SSI eligibility requirements. The act does not exclude children whose adoptions are handled independently from consideration for title IV-E eligibility.

If an attorney or other representative identifies a child and an adoptive parent as candidates for adoption assistance, an application must be provided and processed. The LDSS must also tell the family about their right to appeal any action related to the program.

Procedures and requirements as described in Section [2.5.1](#), and Section [2.5.2](#) also apply to independent adoptions, including the court order containing the determination

that it is not in the child's best interest to be returned to the parents obtained within 180 days of the child's voluntary relinquishment by the parents. The independent agent handling the adoption or the adoptive parent is responsible for providing the required documentation to the LDSS to process the application and determine eligibility. The LDSS must use the process outlined in [2.9.1](#) to process the application.

Note: In independent adoptions, families do not usually face difficulty providing documentation to meet the specific factors or conditions that would render the child eligible for adoption assistance. However, the other two special need requirements of the court determination of best interest and the documentation of reasonable efforts required for adoption assistance eligibility are frequently missing. The LDSS may be required to provide an additional explanation to applicants.

2.9.3 International Adoptions

The adoption assistance program was established to provide permanency for children with special needs in public foster care by assisting LDSS agencies by providing ongoing financial and medical assistance to the families who adopt them. As a result, the statutory requirements for title IV-E and state adoption assistance eligibility are geared towards children in public child welfare systems. Adoption assistance payments must not be paid for any child adopted outside of the United States or who was brought into the United States for the purpose of adoption.

Families who have adopted abroad are entitled to receive post-adoption services. See [Section 4 Post Adoption](#) for additional information.

2.9.4 Parental Placements

The birth parent, legal guardian, or adoptive parent of a child may place their child for adoption directly with adoptive parents of their choice. Adoption assistance maintenance payments are not available for children adopted through parental placements. This restriction does not apply to Adoption Assistance Agreements existing before July of 2013.

Parental placement means the child's parent or legal guardian located or affected the child's placement or placed the child in a family home for foster care or adoption (§ [63.2-1301](#)).

2.10 Tax Benefits for Adopting

The Fostering Connections to Success and Increasing Adoptions Act of 2008 requires LDSS to notify adoptive parents about the adoption tax credit. Refer to [IRS publication 968](#) for detailed information on tax benefits to adoptive parents. Adoption assistance payments for children with special needs are not countable for tax purposes. Adoptive

parents should keep records, including the Adoption Assistance Agreement, as proof that their child receives adoption assistance because of their special needs.

In addition to the credit, certain amounts paid by an employer for qualifying adoption expenses may be excludable from gross income. For both the credit or the exclusion, qualifying expenses include reasonable and necessary adoption fees, court costs, attorney fees, traveling expenses (including amounts spent for meals and lodging while away from home), and other expenses directly related to the legal adoption of an eligible child. Adoptive parents should be referred to the IRS website at <http://www.irs.gov/taxtopics/tc607.html> or by calling the IRS Toll-Free Number at 1- 800-829-1040 for additional information.

2.11 Documenting Adoption Assistance

The LDSS must report public and private adoption AFCARS for each child, regardless of whether the child is in LDSS custody or not, receiving adoption assistance from the LDSS; this includes non-recurring expenses and ongoing adoption assistance. Once the Adoption Assistance Agreement is signed, an adoption assistance case must be opened in the child welfare information system and reviewed annually, depending on the type of agreement.

- **Children In LDSS Custody**

The child welfare information system adoption record is opened within five calendar days from the signature on the Adoptive Placement Agreement using the bio-connect process from the foster care case.

The child's placement status in the child welfare information system foster care record should be changed to Adoption: Non-finalized. Within five calendar days of the effective date of the Adoption Assistance Agreement, the LDSS must update the child welfare information system "Adoption Assistance" screen.

- **Children Adopted Through LCPAs**

LDSS must create a record in the child welfare information system when an application is received. The record is opened without the bio-connect process and within five calendar days of receiving the application.

Additional instructions on opening an adoption case in the child welfare information system can be obtained through the Help Screen in the child welfare information system. Directions on required screens and data entry may also be found on the Help Screen in the child welfare information system.

2.11.1 Adoption Case Contacts

In child welfare information system Adoption Case Contacts, LDSS must include narrative summaries documenting policies, procedures, and timelines were followed when applicable. All case contacts after finalization should be documented in the Adoption Case Contact screen in child welfare information system. Narratives must include, but are not limited to:

- An opening narrative that describes the selection of the adoptive home placement (including the reasons the placement is in the child's best interest), the child's eligibility for adoption assistance (including types of adoption assistance that may be available), and his/her special needs.
- Full disclosure and discussion with adoptive parents on all known child information, including special needs and all known, relevant, and non-identifying information on child's birth family.
- Reasonable efforts to place the child with an appropriate adoptive home without adoption assistance are not in the child's best interest OR description of reasonable efforts that were made but were unsuccessful.
- Discussion of the adoption assistance program, including the application, assessment, negotiation and decision-making process, and information on the right to appeal the LDSS' decision and the fair hearing process.
- Date adoptive parents notified of application receipt and status (should be within 14 days after receiving the application).
- Exploration of all available health insurance, extended family, community, government, and other resources, including the LDSS determination that these additional resources can or cannot be used to fully or partially pay for the services and supports required to meet the child's special needs.
- Date the Adoption Assistance Agreement was executed, meaning the effective date stated in the agreement is within 90 days after the LDSS receives completed application with all supporting documentation.
- Dates the signed affidavits were returned.
- Any parent or provider contacts subsequent to the final order of adoption, including requests for services/addendums.

2.11.2 Adoption Assistance Screen

In the child welfare information system Assistance screen, the LDSS must record and keep up-to-date all adoption assistance payments, including basic and enhanced

maintenance, non-recurring, and special service payments. Also, the LDSS must be able to certify that the data in the child welfare information system record is consistent with the paper case record, the LDSS financial system of record, and the expenditures submitted for reimbursement in LASER. The goal of reporting the monthly payments in the child welfare information system is to provide a relatively accurate picture of the monthly payments agreed to on the Adoption Assistance Agreement. The child welfare information system information is also used in federal reporting and state budget analysis. Further directions may be found on the Help screen in the child welfare information system.

When the initial Adoption Assistance Agreement is signed, and payments begin, the LDSS will enter in the Assistance screen each type of payment (maintenance, enhanced maintenance, non-recurring, special service) and subsequent information into the inset grid. Specifically, the:

- **Type of Payment** is either maintenance, enhanced maintenance, nonrecurring, or service.
- **Application Date** is the date of the initial application.
- **Effective Date** is the first day of the month following the month in which all parties sign and date the agreement.
- **Renewal Date** is the due date of the next annual affidavit (the last date of the month a year after the effective date) or the date the agreement terminates, whichever is sooner.
- **Type of Agreement** is the funding source for the basic maintenance portion of the agreement.
- **Authorized Amount** is the monthly maximum amount authorized for the payment. For service payments that fluctuate from month to month, the LDSS will enter the maximum monthly liability in the payment amount.
- **End Date** is left blank until the annual affidavit is received or the agreement terminates. The end date is the last date of payment within either the annual or monthly payment cycle.

Example:

The initial application is signed by the family on August 27, 2016. The last date of signature on the Adoption Assistance Agreement is 10/16/16. The agreement specifies the effective date at 11/01/16 and authorizes a title IV-E basic maintenance payment of \$700, non-recurring costs of up to \$2,000, and six months of counseling up to \$500/month. Non-recurring expenses were paid on 11/10/2016.

In the child welfare information system Adoption Assistance screen, the LDSS would have three entries:

- **Maintenance:** application date 8/27/16, effective date 11/01/16, renewal date 10/31/17; type of agreement: IV-E, type of payment: maintenance, amount authorized \$700.
- **Non-recurring:** application date 8/27/16, effective date 11/01/16, renewal date 10/31/17; type of agreement: IV-E, type of payment: Non-recurring, amount authorized \$2,000 with an end date of 11/10/2016.
- **Special Services:** application date 8/27/16, effective date 11/01/16, renewal date 04/30/17; type of agreement: IV-E, type of payment: special services, the maximum monthly amount authorized \$500.

By not entering an end date all payment types will display on the child welfare information system Adoptive Children Report (ACR); subsequently, the ACR should be able to be reconciled to the amounts authorized on the Adoption Assistance Agreement and any addendums. The LDSS' financial system of record and the monthly LASER reimbursement entries should never exceed the amounts authorized.

In the above example, unless there is an addendum to the agreement specifically authorizing continued special service payments, the LDSS would end date the special service payment on 04/30/17. Also, once all the non-recurring expenditures have been reimbursed, the agency will need to end date this entry so that it will not display on the child welfare information system Adoptive Children Report. Non-recurring expenses should only display on the ACR during the period in which the agency is either waiting for invoices or in the month the invoice is paid.

Upon receipt of the annual affidavit, the LDSS will end date the previously created individual payment lines and create new payment lines in the inset grid for the upcoming year.

- **Application Date** is the date of the initial application.
- **Effective Date** is the first date of the next agreement year.
- **Renewal Date** is the due date of the next annual affidavit.
- **Type of Agreement** is funding source for the basic maintenance portion of the agreement.
- **Authorized Amount** is the monthly maximum amount authorized for the payment.

2.11.3 Residential Screen

If adoption assistance funding is used to pay for any portion of the residential treatment, the local department must record the maximum monthly cost, the name of the facility, and the date the child entered the facility on the Adopt/ Residential Screen in child welfare information system. In the comment section of this screen, the LDSS should enter the adoption assistance terms specific to the residential treatment. When the child is no longer in treatment at this facility, the LDSS must enter the exit date on this screen.

2.12 Adoption Assistance Application

The LDSS is primarily responsible for ensuring the adoptive family understands the purpose and the process related to adoption assistance and ensuring the family submits a timely, fully complete application.

The following information should be shared before the adoptive parent formally applies for adoption assistance:

- *Unlike foster care payments, there is not a standard amount the family will receive for the Adoption Assistance Agreement. Do not make promises to the family regarding the amount of the Adoption Assistance Agreement they may receive.*
- *The Adoption Assistance Agreement is meant to combine with the family's income and resources to help subsidize expenses associated with meeting the child's needs. It is not intended to cover all of the costs of raising a child.*
- *The Adoption Assistance Agreement must be negotiated based on the family's out-of-pocket expenses incurred to meet the child's basic and special needs.*
- *The average monthly agreement is less than the foster care payment.*
- *The agreement cannot exceed the Virginia foster care basic maintenance payment as determined by the child's age combined with the level of care payment as determined by the VEMAT assessment. The VEMAT payment is not automatically added to the assistance payment. The base rate and the VEMAT payment only set the maximum assistance amount allowed. The negotiated assistance amount is based on the family's actual out-of-pocket expenses for the child.*
- *Adoption assistance ends when the child turns 18, unless an extension is granted, and then it must end by 21.*
- *Using the [Full Disclosure Checklist for Adoptive Families](#), the LDSS will:*

- Meet with the prospective adoptive parent to indicate that each has been completed:
 - *Ensure the adoptive parents have received information on the lifelong process of adoption and its meaning, have been educated on the benefits and responsibilities of adoption, and provided information regarding adoption assistance and post-adoption services.*
 - *The adoptive parents have received and signed the [Information Sheet on Virginia Assistance Programs](#), a copy must be placed in the adoption assistance case file and one provided to the adoptive parent;*
 - *Reviewed, explained, and obtained the adoptive parent signature on the [Full Disclosure of Child Information](#) form and [Background Check Requirements](#) forms;*
 - *Review and explain the completed [Adoption Assistance Screening Tool](#), and obtain the adoptive parents' signatures on the form;*
 - *Provide the prospective adoptive parents with the [Application for Assistance](#). Section one of the application should be completed prior to giving it to the adoptive parents.*
 - *Adoptive parents must sign a copy of the [Full Disclosure Checklist](#) indicating they have completed the full disclosure process, and a copy of the form must be maintained in their Adoption Assistance Case file.*

Copies of all forms signed by the adoptive parents must be placed in the child's Adoption Assistance Case file, and the adoptive parents must also be provided copies of signed forms.

Note: A separate [Adoption Assistance Screening Tool](#) and [Application for Assistance](#) must be complete for each child applying for adoption assistance.

After the LDSS and adoptive parents have thoroughly discussed the child's special needs and the adoption assistance program, the LDSS and the adoptive parents should begin the application process.

All children who are found eligible for adoption assistance and in the custody of the LDSS and every adoptive parent who requests an application must be provided the [Application for Assistance](#). The LDSS must complete Section One before giving the document to the adoptive parent.

A completed application by the adoptive parent will indicate one of the following:

- **Request adoption assistance** on behalf of the child with special needs.

- **Decline adoption assistance** by signing Section 8B of the application.
- **Request to enter into an Adoption Assistance Agreement, but decline financial assistance and services until needed.** See Subsection [2.13.1.2 Deferred Adoption Assistance Agreement](#) for additional information on this topic.

The adoptive parents must sign and submit the completed application and all necessary documentation to the LDSS. Letters, other written requests, and verbal requests for adoption assistance do not constitute an application nor initiate the timeframes for processing applications.

2.12.1 Review the Application and Notice of Receipt

Within **seven days** after receiving the application for assistance, the LDSS must:

- Review the application to determine it is complete, and all required documentation is attached.
- Notify the adoptive parents in writing:
 - Additional information is needed. The notification must state the specific information necessary to complete the application and request the adoptive parents submit the information by email, phone, or in person within **30 calendar days** from the date of the notice, or the **application will be denied**. *If the application is denied, the LDSS must send the adoptive parent the [Family Services Notice of Action and Right to Appeal](#) form denying the adoption assistance application and indicating the specific reason for the denial.*
 - **The application is complete.** The notification must include the date the application was received. It must state that the LDSS and the adoptive parents have **60 calendar days** to execute an Adoption Assistance Agreement from the date of application.
 - **The application is denied.** Used in cases where it is evident the child is not eligible for adoption assistance, per the screening tool. *Every adoptive parent must be provided the opportunity to apply for adoption assistance. Only through applying for assistance and being denied can the adoptive parent access their rights to the appeals process.*

Once the LDSS receives the completed application and all required documentation, the LDSS must submit a [Referral for Negotiations](#) to the Assistance Negotiator. See [Negotiating Adoption Assistance](#) for additional information.

2.13 Adoption Assistance Agreement

An Adoption Assistance Agreement is a written binding agreement between the adoptive parents, the LDSS, and the LCPA when the child is in its custody. A request for adoption assistance is initiated using the [Application for Assistance](#).

The [Adoption Assistance Agreement](#) must:

- Be signed by the adoptive parents and the Local Board and be in effect before the adoption assistance payments are made, but no later than the finalization of the adoption;
- Specify the duration of the agreement;
- Specify the amount of the adoption assistance payment (if any) and the nature and amount of any other payments and services;
- Specify the child's eligibility for title IV-E, state, non-recurring adoption assistance, and funding for special services;
- Specify that the agreement remains in effect regardless of the state of residence of the adoptive parents;
- Contain provisions for the protection of interests of the child in case the adoptive parents and child should move to another state while the agreement is in effect;
- The Adoption Assistance Agreement is not effective until both the local board or its designee and the adoptive parents have signed the agreement. For married couples, both parents must sign the agreement and any subsequent addendum to the agreement.
- The Adoption Assistance Agreement must be signed prior to or on the date of the issuance of the final order of adoption. However, both processes, reaching the agreement and obtaining the adoption finalization, may be in progress simultaneously.
- Because the Adoption Assistance Agreement is a legal contract, the type(s) of assistance, amount of assistance, and the effective date of assistance must be entered on the form before either party signs it.
- The agreement must be signed within 60 days of the date of the application. The effective date of adoption assistance is the first day of the following month after all parties have signed the agreement. However, no payments must begin until an Adoption Assistance Agreement is negotiated and signed into effect and the child has been placed in the adoptive home, as indicated by the signed adoption placement agreement.

- Adoption assistance is an entitlement program for an eligible child. Therefore, once the child has been determined to be eligible, the LDSS can deny or discontinue payments and benefits only with the consent of the adoptive parent unless the Adoption Assistance Agreement is to be terminated for one of the reasons listed in Section [2.15 Terminating Adoption Assistance](#).
- The Adoption Assistance Agreement must be renewed annually and may be renewed more often if the situation warrants or the adoptive parent(s) requests a renegotiation of the agreement.
- The agreement must include, but is not limited to:
 - The child's documented special need;
 - A process for requesting changes through an addendum to the agreement;
- Requirements that the adoptive parents:
 - Document that a school age child is enrolled full-time in a school or that the child has completed secondary school;
 - Submit an [Annual Affidavit for Adoption Assistance](#);
 - Submit written notification of changes when:
 - Their address changes.
 - The child cannot participate in school full-time due to a medical condition documented by a qualified professional.
 - Changes in the child's special needs or the adoptive parents' circumstances may change the amount of adoption assistance received.
 - The child is no longer eligible for adoption assistance.
- Circumstances for terminating services.
- Process for appealing decisions.
- Process for continuing adoption assistance when the family unit moves to another jurisdiction in Virginia or another state.
- Effective and expiration dates of the agreement.
- Signatures of all parties and dates.

2.13.1 Executing the Agreement

Once the Adoption Assistance Agreement is signed and the child is adopted, the adoptive parents are free to decide about expenditures on behalf of the child without further agency approval or oversight. No payment is made, or service is reimbursed until an Adoption Assistance Agreement is signed and effective per the effective date on the agreement.

When the local board, or its designee, approves the agreement, all parties sign the document. The local board does not have the authority to deny an Adoption Assistance Agreement for an eligible child. Signatures must include the local board representative, designee, the adoptive parents, and the LCPA when the child is in LCPA custody. The signed agreement is legally binding on all parties ([Social Security Act, Title IV, § 475 \(3\) \[42 USC 675\]](#); and § [63.2-1302 C](#)).

The agreement must be signed and in effect before, or at the time of, the final order of adoption when title IV-E adoption assistance funds are used ([45 CFR 1356.40](#)). The effective date and beginning initial payment date must be the first day of the month following the month in which all parties signed the agreement. The agreement must state the effective date. When the agreement is entered before adoption finalization, the effective date must be no later than the date the final order of adoption is signed by the judge.

The LDSS must only provide payments and services after all parties have signed and dated the agreement and when the agreement is in effect. However, for special services payments, the effective date is when all parties sign the agreement. The LDSS must give the parents a copy of the signed agreement.

The LDSS must keep the original agreement and supporting documents in the child's adoption assistance case record. The LDSS must discuss with the adoptive parents how they may request changes at any time during the duration of the agreement. The LDSS must give the adoptive parents a copy of the Addendum Request to the Assistance Agreement.

Failure to execute an agreement before the final order of adoption will prevent the child from receiving adoption assistance unless the child's eligibility can be established using the policies and procedures for establishing eligibility after the final order of adoption. In addition, title IV-E funds cannot be used to support the Adoption Assistance Agreement for a title IV-E eligible child when the agreement is executed after the final order of adoption.

2.13.1.1 When the LDSS Fails to Execute the Agreement Timely

When the Adoption Assistance Agreement is not executed before the Final Order of Adoption due to the LDSS's failure to act on the application within a reasonable time, the adoptive parents may ask for a review of the process (§ [63.2-1304](#)).

Before making a final determination on the application, the LDSS should attempt to rectify the situation as an administrative error if agreed to by the adoptive parents. The LDSS should inform the adoptive parents of its ability to resolve the situation without influencing their ability to request a review of the process.

The LDSS must complete the following steps:

- *Document the reasons the LDSS failed to process the application correctly and how the child met all eligibility criteria for title IV-E or state funding before, or at the time of, the final adoption order in the child welfare case management system.*
- *Provide a written explanation to the Assistance Negotiator with a written request to execute the Adoption Assistance Agreement using title IV-E or state funds.*

The Adoption Program Manager determines whether the situation can be corrected as an administrative error. If the Adoption Program Manager approves, the approval will be provided in writing.

- *The LDSS must then execute the Adoption Assistance Agreement using title IV-E or state funds.*

2.13.1.2 Non-Recurring Adoption Expenses Only

If the child is eligible only for the reimbursement of nonrecurring adoption expenses, the LDSS must prepare an Adoption Assistance Agreement for this benefit only and execute it with the family. Upon the receipt of proof of qualifying expenses, as described in [Subsection 2.6.1 Non-recurring Expenses](#), the non-recurring expense will be reimbursed directly to the adoptive family or the provider of the parent's choice.

2.13.1.3 Deferring Adoption Assistance

Deferred adoption assistance (zero dollar or deferred subsidy) is a type of adoption assistance reserved for children who are recognized as high risk and have the potential to develop significant medical, psychological, emotional, or behavioral issues due to their history. High-risk considerations include:

- *Any child whose genetic/medical background or birth parent's medical history indicates potential for developing physical/psychological issues;*
- *An infant who was exposed to alcohol/drugs, where such exposure is documented in the child's birth record;*

The process for determining deferred adoption assistance requires the LDSS to obtain documentation from the licensed physician, psychiatrist, psychologist, or other licensed mental health professional regarding the child's high risk factors. Examples of documentation include, but are not limited to, medical examination, psychological or psychiatric evaluations.

Children eligible for title IV-E deferred adoption assistance must be approved for title IV-E Medicaid but with a "zero dollar" amount monthly payment. A child determined eligible for state deferred adoption assistance is not eligible for Medicaid.

The agreement does not require negotiation until a need is expressed by the parent for monthly maintenance payments and a diagnosis is made supporting the payment. At that time, the LDSS will follow the procedures outlined in [Negotiating Adoption Assistance](#) to determine the monthly payment.

The foster care basic maintenance rate set forth at the time of the request, coinciding with the child's age, will be approved if the child meets eligibility requirements. The child will also be considered for funding for special service payment requests.

2.14 Negotiating Adoption Assistance

The first step in the adoption assistance process is knowing the adoption assistance policies and procedures. Only then must the FSS begin to review the information about the child, determine resources available in the community, and provide realistic expectations to the family during the process.

- *Using the [Adoption Assistance Screening Tool](#), determine if the child is eligible for adoption assistance.*

This tool must also be determined to have been completed accurately by the Regional Assistance Negotiator.

If the Assistance Negotiator determines the screening tool to be inaccurate, it will be returned to the LDSS. The LDSS must correct the screening tool, and the adoptive parent(s) must sign the corrected tool to acknowledge they are aware of any changes made to the tool. The negotiation process must not proceed until the screening tool has been corrected and it has been resubmitted to the Assistance Negotiator. If the corrected tool is not submitted to the Assistance Negotiator within 10 calendar days, the Application for Assistance must be denied.

- *Discuss the results of the adoption assistance screening tool with the adoptive parents.*

- *The LDSS must ask the adoptive parents if they would adopt the child without adoption assistance.*
- *For older youth, have an open and honest conversation with them about their feelings regarding the process. Some older youth may be concerned that the adoptive parent only wants to adopt for the “money.” Motivation for adoption is discussed in further detail in the Adoption Guidance Section 3: [Finalizing the Adoption](#). Be sure to resolve any concerns the youth has before moving forward with the adoption.*
- Complete the [Available Community Resources: Assessing Resources to Defray Costs](#) form with the adoptive family.
- Gather documentation that supports any additional daily support and supervision needs the child may have that are payable through enhanced maintenance and for all special service requests. Supporting documentation must be current within one year of the date of application, except for psychological assessments, which may be within two years of the date of application.
- Submit a Referral for Negotiations to the respective regional Assistance Negotiators. The Referral packet must contain the following:
 - An Application for Assistance
 - An Adoption Assistance Screening Tool
 - A VEMAT (if applicable)
 - Supporting documentation and diagnosis of each child’s special need (such as, Full Disclosure Child Information Form, medical report, birth records, psychological evaluations, treatment notes in cases of sudden increases of VEMAT scores, etc.)
 - *For special service requests, verification that the child has been receiving the service.*
 - A completed [Available Community Resources: Assessing Resources to Defray Costs](#) form.

The Assistance Negotiator may choose to negotiate by desk review, telephone, through an online tool (i.e. Zoom or Google Meets), or face-to-face, as appropriate, per the Assistance Negotiator responsibilities. The Assistance Negotiator must acknowledge they have everything needed to proceed with the negotiation within five calendar days to the FSS by email. Once the acknowledgment has been sent, the Assistance Negotiator has 30 calendar days to complete the negotiation.

Basic foster care maintenance and enhanced maintenance payments combined are the “maintenance payment” for adoption assistance. Negotiations begin at 70% of the total maintenance rate.

Concluding Negotiations:

- *At the conclusion of negotiations, the Assistance Negotiator will submit the [Negotiation Report](#) to the LDSS.*
- *Within **five calendar days** of receiving the [Negotiation Report](#), the LDSS must provide the adoptive family with a [Family Services Notice of Action and Rights to Appeal](#) form, informing them in writing of the decision. The adoptive family has **10 calendar days** to appeal the decision.*

2.14.1 Means Test

The use of a means test is prohibited in the process of selecting a suitable adoptive family or in negotiating an Adoption Assistance Agreement, including the determination of the amount of the adoption assistance payment. Once a child has been determined eligible, adoptive parents cannot be rejected for adoption assistance nor have their payments reduced without their agreement because of their income or other resources.

2.14.2 Responsibilities of the LDSS

The LDSS must inform the prospective adoptive parents of the availability of adoption assistance but must not discuss specifics of the agreement with the family; they must not commit to specific services or any certain amount of adoption assistance monetary figure.

The LDSS must send to the Assistance Negotiator, at least two weeks before the date planned to sign the Adoption Assistance Agreement:

- The complete social history of the child;
- Medical, school, psychological records of the child as applicable;
- The updated adoptive parent home study;
- Documentation regarding referrals to the state and national adoption exchange, recruitment plans, and any special recruitment initiatives if the placement is not with a relative or a foster family with whom a significant relationship has been established;
- Complete the [Referral for Negotiations](#) form;

- Provide the family with information about the Adoption Assistance Program.

2.14.3 Considerations During Negotiations

The Assistance Negotiator, LDSS, and the adoptive parents must take the following factors and guidelines into consideration when discussing and negotiating any adoption assistance payment:

- The child's present and future need for services are considered in relation to the adoptive family's income, other resources, expenses, circumstances, and plans for the future.
- Benefits are intended only to meet the child's needs and the adoptive parents' responsibilities to those needs.
- Any and all sources of income and support that are specifically designated for the child (such as Retirement, Survivors, Disability Insurance, or Veterans Administration benefits) must be applied toward meeting the child's needs.
- The costs associated with meeting the child's needs through private sources are considered only when those needs cannot be met through other publicly funded sources.

2.14.4 Assessing Resources to Defray Costs

The LDSS and adoptive parents must consider all relevant and applicable resources, when assessing and negotiating maintenance and special service payments for adoption assistance.

The LDSS and the adoptive parent parents must assess all available family, health insurance, community, government, and other resources to help meet the needs of the child and defray the costs for adoption assistance ([22 VAC 40-201-161 F](#)). *The LDSS must complete the following: [Available Community Resources: Assessing Resources to Defray Costs](#) form indicating what applicable resources were explored and the outcomes of exploration.*

When the LDSS determines that health insurance benefits or other resources are appropriate, available, and accessible for the child, these resources must be utilized prior to considering adoption assistance and/or special services (§ [63.2-1301 C](#)). Adoption assistance funds must not be used to pay for services that can be provided through these resources. The adoptive parents may choose whether or not to use these resources.

For more information on assessing information to defray costs see [Section 4 Post Adoption Services](#).

2.14.5 Appealing the Negotiation

The LDSS must provide the adoptive parents with the [Family Services Notice of Action and Right to Appeal](#) to the adoptive parents; documenting the LDSS action on the adoptive parents' application.

This notice should be provided within 90 calendar days from the date the LDSS received the completed Application for Assistance with all required documentation. The notice includes information about the adoptive parents' right to appeal any LDSS decision in granting, denying, changing, or discontinuing adoption assistance within 30 calendar days of receiving written notice of the decisions and their right to a fair hearing. LDSS cannot use the Appeals and Fair Hearings process for appealing the negotiation results. LDSS who disagree or object to the results of the negotiations should contact the Adoption Program Manager by email. If the LDSS and the Adoption Program Manager are unable to reach an accord, the LDSS may contact the Director of Family Services.

2.15 Annual Certification of Adoption Assistance

The [Virginia Annual Affidavit for Adoption Assistance](#) must be used to conduct an annual certification to determine if the family continues to be legally and financially responsible for the child. It is not a re-determination of eligibility for adoption assistance.

Except for agreements signed for non-recurring expenses only, the annual affidavit is required for all Adoption Assistance Agreements, including Medicaid only agreements and agreements entered into with a zero dollar payment.

The LDSS must notify the adoptive parents in writing of the date the annual affidavit is due. The notification must be sent 60 days before the anniversary date when the Adoption Assistance Agreement was effective.

The adoptive parents must submit the Annual affidavit to the LDSS within 30 days of the anniversary date that the Adoption Assistance Agreement was effective ([§ 63.2-1302 C](#)).

The adoptive parents are required to inform the LDSS of circumstances that would make them ineligible for adoption assistance payments or payments in a different amount.

The annual renewal packet must be mailed to the adoptive family 60 days before the renewal date. All local department annual affidavits must include information to determine the following:

- Adoptive parents are legally responsible for the child;
- Adoptive parents currently provide financial support for the child;

- Child is currently attending/enrolled in school. Supporting documentation is required: current report card, authorization letter for homeschooling, or enrollment verification from the school system.
- If the youth will reach their 18th birthday within the next 12 months:
 - It must be determined that the child has a mental or physical disability that warrants continuation of the adoption assistance beyond the child's 18th birthday;
 - Local departments must obtain relevant and current documentation that the basis for continuing the assistance payment past 18 years exists.
- *Information on Post-Adoption Services.*

2.15.1 Re-determination / Review

LDSS does not routinely review Adoption Assistance Agreements. The adoptive family must notify the LDSS immediately to request a review of the Adoption Assistance Agreement if there is a change in the child's circumstances that would affect the child's eligibility for continued assistance.

Once the child is determined initially eligible in these areas, no subsequent redetermination of special needs or categorical eligibility is required. The child's adoption assistance eligibility is maintained until adoption assistance is terminated for reasons listed in [Section 2.15 Terminating Adoption Assistance](#). Examples of changes that can occur after adoption assistance are determined which will not affect the child's continuing eligibility include but are not limited to the following:

- *The move of an individual member of a sibling group out of the adoptive home after adoption assistance had started when the sibling's placement in the home was the sole qualifier for adoption assistance.*
- *A cure of the child's health condition after adoption assistance had started when the health condition was the sole reason for adoption assistance.*
- *The child's eligibility for income, such as SSI, subsequent to the start of adoption assistance.*

Changes that would impact the continuation of adoption assistance include:

- *The adoptive parent no longer providing financial support for the child*
- *The child has married, enlisted in the U.S. military or reserves, or has become emancipated.*

In addition to verifying that the adoptive parent continues to be legally and financially responsible for the child, the annual certification period provides an opportunity for the LDSS to reach out to the adoptive family and remind them of post-adoption supports and services available to them. For additional information regarding renegotiating Adoption Assistance Agreements, see [Section 4 Post Adoption Services](#).

2.15.2 Suspended Adoption Assistance

If the family has not returned the annual affidavit, the LDSS:

- Must not suspend or terminate adoption assistance maintenance payments or the Adoption Assistance Agreement;
- May suspend the special service payments until the signed affidavit is received; the LDSS must not terminate the special service payment.

The LDSS must attempt to obtain the affidavit with due diligence. When the adoptive parents do not return the annual affidavit, the LDSS:

- Should send a certified letter to the adoptive parents advising them to return the signed affidavit by a required date.
- May permit them to come into the office, sign the affidavit, and pick up their check at the same time by the required date. The certified letter must be sent at least 30 days prior to holding the check. The LDSS must issue the check for adoption assistance payments on the normal schedule and must give the check to the adoptive parents before they depart the premises.
- Must inform the adoptive parents that, when applicable, special service payments being provided to the family will be suspended until the signed affidavit is received. The letter must include information on the adoptive parents' right to appeal the LDSS decision within 30 calendar days of receiving the letter and provide information on the fair hearing process. After diligent efforts by the LDSS to obtain the affidavit and when the adoptive parents fail to submit the signed affidavit by the required returned date, the LDSS may suspend the identified special services payment.

The LDSS must document case contacts, in the child welfare information system, within five calendar days of the receipt of the signed affidavit. The LDSS must place copies of the written notifications to the adoptive parents and the returned affidavits in the child's adoption assistance case record.

2.15.3 School Attendance

LDSS must assure that every child who receives adoption assistance and is of the compulsory age (five to 18) for school attendance under state law § [22.1-254](#) is

enrolled as a full-time elementary or secondary school student or has completed secondary school. "Elementary or secondary school student" is defined to include a child that is:

- Enrolled in an institution which provides elementary or secondary education in compliance with state law,
- Instructed in elementary or secondary education at home in accordance with state law on home schools,
- In an independent study program in elementary or secondary education that is administered by the local school district and is in accordance with state law.

The adoptive parents must report information on the status of the school aged child or youth on the annual affidavit (e.g., full-time student, completed secondary school).

The Adoption Assistance Agreement includes a provision for the adoptive parents to authorize the LDSS and VDSS to use the child's State Testing Identification (STI) number, when applicable. The purpose of the STI number is to document the child's enrollment in school and to obtain education information from the Virginia Department of Education (VDOE) on children who receive adoption assistance funds. Only non-identifying aggregate education information on children with adoption assistance will be reported publicly.

The STI number is located on the child's SOL Student Report for the Standards of Learning assessments. If the LDSS does not have the STI number in the child welfare information system, the LDSS or LCPA that has custody of the child may contact the person responsible for student records at the child's school to obtain the number. The STI number must be maintained as confidential information by LDSS (§ [63.2-104](#)).

2.16 Terminating Adoption Assistance

*The LDSS must use the [Family Services Notice of Action and Right to Appeal](#) form to inform families adoption assistance payments are terminating. The form must be completed and sent to the adoptive parents **60 calendar days** prior to terminating the agreement. It is important the LDSS list the reason for terminating the agreement so if the adoptive parent chooses to exercise their right to appeal the termination, the information is available on the form.*

If the adoptive family files an appeal, the case must remain open until all appeals have been concluded; however, payment will not be issued once the annual agreement has expired.

2.16.1 Reasons for Terminating Adoption Assistance

Federal and state law require that adoption assistance be discontinued without the concurrence of the adoptive parent when any one of the following occurs:

- The child reaches 18 years of age. If the LDSS is provided information that the child has a physical condition or a mental, emotion or physical handicap that requires a continuance of benefits, adoption assistance benefits may continue until the child reaches age 21. See [Section 2.19 Extending Adoption Assistance](#) for additional information.
- *The adoptive parent is no longer legally responsible for the child's support. According to federal interpretation found in DHHS Policy Interpretation Question [PIQ-98-02](#), a parent is not considered legally responsible for the support of a child when parental rights have been terminated or when the child becomes an emancipated minor, marries, or enlists in the military.*
- *The child no longer receives any financial support from the adoptive parent. [PIQ-98-02](#) defines financial support as basic food and shelter, and also includes payments made for tuition, clothing, maintenance of special equipment in the home, family therapy, and services for the child's special needs.*

In addition to the terms listed above, the Adoption Assistance Agreement must also be terminated under the following circumstances:

- *The terms of the Adoption Assistance Agreement have been fulfilled and the LDSS and the adoptive parents have mutually agree to terminate.*
- *The adoptive parents make a written request for termination of assistance.*
- *Child re-enters foster care and there is a subsequent termination of parental rights.*
- *Death of the eligible child.*

Note: The Adoption Assistance Agreement is a legally binding contract made with the adoptive parent and the payments must only be made to the parents who adopt the child. There is no provision for the transfer of the agreement or for the payments to be made to anyone, including the child, a relative, or a guardian, in situations where the adoptive parents die or the adoption is dissolved. However, although both the Adoption Assistance Agreement with the adoptive parents and the adoption assistance payments are terminated, the child's eligibility for adoption assistance does not terminate, as long as they continue to meet the definition of special needs.

2.16.2 When Adoptive Parents Fail to Provide Financial Support

When the LDSS can verify and document in writing the adoptive parents are not providing financial support for the child, the LDSS must immediately send the adoptive parents a certified letter stating the following:

- Verification of the information received documenting that the adoptive parents are not providing any financial support for the child.
- The LDSS is prohibited by law from making adoption assistance payments when the child is no longer receiving any financial support from the adoptive parents ([Social Security Act, Title IV, § 473 \(a\) \(4\) \(A\) \(iii\) \[42 U.S.C. 673\]](#) and [Federal Child Welfare Policy Manual, Subsection 8.2D.5 #2](#)).
- A copy of the binding Adoption Assistance Agreement requiring that the LDSS terminate the agreement and any addendum.
- If the adoptive parents do not immediately reinstate financial support for the child and provide documentation of such action to the LDSS, the LDSS will terminate all adoption assistance payments and the Adoption Assistance Agreement in its entirety, **effective ten (10) days** after the adoptive parents' receipt of the certified letter.
- The adoptive parents must immediately contact the LDSS within **ten (10) days** of receipt of the certified letter to discuss the situation.
- If the adoptive parents do not immediately reinstate financial support for the child and provide documentation of such action to the LDSS, or if the adoptive parents do not contact the LDSS within **ten (10) days** of their receipt of the certified letter to discuss the situation, the LDSS will terminate all adoption assistance payments and the Adoption Assistance Agreement in its entirety, **effective ten (10) days** after the adoptive parents' receipt of the certified letter. The LDSS must notify both parents when both parents signed the active Adoption Assistance Agreement, including separated or divorced parents.

The LDSS must discuss the situation with the adoptive parents and document the discussion in the child welfare information system narrative. The discussion should include:

- The documented lack of financial support by the adoptive parents.
- The impact on the child.
- The adoptive parents' reasons for not providing any financial support for the child.

- The adoptive parents' decision whether or not they will immediately reinstitute their financial support for the child.
- The LDSS action based on the adoptive parents' decision, either to:
 - Continue payments, if the adoptive parents reinstate financial support; or
 - End payments and the agreement on the specified date in the certified letter, if the adoptive parents do not reinstate financial support of the child.
- The LDSS must document the adoptive parents' decision and the LDSS' action in writing. The LDSS and the adoptive parents must sign the document. If the adoptive parents do not sign the document, the LDSS must write on the document the date of the discussion with the adoptive parents and that the adoptive parents declined when asked to sign the statement.
- If the adoptive parents decide to not reinstitute their financial support of the child, or do not contact the LDSS to discuss their financial support of the child as the LDSS requested, the LDSS must provide written notice in a certified letter to the adoptive parents that the agreement must be terminated on a specified date (e.g., the date specified in the first certified letter). The notification must include information on the adoptive parents' right to appeal the decision to terminate the agreement within 30 days of their receipt of the second written notice. The LDSS must then terminate the payments and the Adoption Assistance Agreement in its entirety ([Social Security Act, Title IV, § 473 \(a\) \(4\) \(A\) \(iii\) \[42 U.S.C. 673\]](#) and [Federal Child Welfare Policy Manual, Subsection 8.2D.5 #2](#)).

2.16.3 Timelines for Terminating Assistance

Termination of adoption assistance must occur on the first of the month following the decision of the LDSS and/or the adoptive parent to close the adoption assistance case and the provision of proper notice of action.

2.17 Special Adoption Considerations

2.17.1 Therapeutic Case Management Services

For children receiving services provided by a therapeutic foster care (TFC) agency, once the adoption placement and Adoption Assistance Agreements have been signed, treatment foster care services will end effective on the day prior to the effective date of the Adoption Assistance Agreement.

2.17.2 Interstate Adoption and Adoption Assistance

2.17.2.1 If the Child is in the Custody of a State Agency

It is the responsibility of the state with the placement and care responsibility of the child prior to the adoption to provide adoption assistance; not the state of residence of the adoptive family.

2.17.2.2 If the Child is not in the Custody of a State Agency

If a state agency does not have responsibility for placement and care, it is the adoptive parents' state of residence where the adoption assistance application should be made. In this situation, the LDSS in the adoptive parents' place of residence is responsible for processing the application, determining whether the child meets the definition of special needs, entering into an Adoption Assistance Agreement and paying the assistance.

In accordance with its own laws and programs, each state determines the amount of adoption assistance and other aid it provides on behalf of children. The assistance may be subject to a periodic review to ensure the child continues to meet program eligibility.

All interstate placements of children must be made in compliance with the Interstate Compact on the Placement of Children (ICPC or Compact), as described in [ICPC Policy Chapter E](#), for adoption placements. A placement made in violation of the Compact renders the child ineligible for adoption assistance. The LDSS must note in the eligibility determination section of the Application for Assistance that the adoptive placement was made in violation of the Compact requirements. For additional information on adoption placements see [Section 3: Finalizing the Adoption](#).

2.17.3 Adoption by Birth/Legal Parent

A child's biological or legal parent whose rights were previously terminated who later adopts their biological child is not eligible for adoption assistance.

2.17.4 When an Adopted Child Re-Enters Foster Care

When an adopted child re-enters the foster care system after a finalized adoption or if the LDSS is informed that a child placed by a different locality is no longer residing with their adoptive parents, the LDSS must immediately inform the LDSS responsible for the issuance of the adoption assistance payment. The LDSS that issues the assistance payment must immediately review the adoption assistance record and engage the family to assess their ongoing needs.

The Adoption Assistance Agreement continues unless there are grounds for terminating it. As a reminder, the LDSS is required, with a degree of flexibility, to refer

children to the child support enforcement program. To determine if it is appropriate to refer the matter to the child support program.

The LDSS should evaluate each case on an individual basis, considering the best interest of the child and the circumstances of the family. Facts to consider:

- *Is the parent is working towards reunification with the child, consistent with the case plan?*
- *Would the referral impede the parent's ability to reunify with the child?*
- *Has the parent agreed to pay for the cost of out-of-home care or to temporarily accept a reduction in the adoption assistance payment?*

Questions of this nature should guide the agency's decision regarding whether or not the referral should be made.

Assistance payments may be made to the adoptive parents concurrently with the foster care payment to the foster parent. Medicaid will continue based on the child's adoption assistance eligibility status when the agreement is not terminated. If the agreement is terminated, Medicaid will be issued based on the Medicaid eligibility determination made from title IV-E Foster Care eligibility.

2.17.5 Adoption Following Kinship Guardianship Placement

If a guardian who has an active Kinship Guardianship Assistance Agreement, has custody of a child that meets the State's special needs criteria for adoption assistance the guardian wishes to pursue adoption of the child, the funding determination for adoption assistance will not consider the guardianship placement or the guardianship assistance payments that were made for the child.

If the child would have met the funding determination for title IV-E adoption assistance prior to the Kinship Guardianship Assistance Agreement being put in place, the title IV-E funding determination will be carried forward to adoption following a guardianship placement.

2.17.6 Adoption Following a Dissolved International Adoption

A child who is not a citizen or resident of the United States (U.S.) and was adopted outside of the U.S. or brought into the U.S. for the purpose of being adopted may be eligible for adoption assistance if the initial adoption of the child is dissolved and the child is subsequently placed in foster care through the public child welfare system. The child's circumstances must meet the State's special needs eligibility requirements.

2.17.7 Changes Due to Adoption Disruption

If the adoption disrupts prior to finalization, the LDSS must send the [Notice of Adoption Disruption](#) form to the child's guardian ad litem, the Regional Specialist, and Regional Assistance Negotiator.

The funding source must be changed from adoption assistance to foster care effective on the date of placement disruption. The LDSS must follow procedures for placing a child as set forth in Foster Care Guidance [Section 6.7.6](#).

If a child is subsequently matched with another adoptive family, a new [Application for Assistance](#) form with required documentation must be submitted, a new [Adoption Assistance Agreement](#) must be negotiated, and a new Adoption case must be opened.

The LDSS must update the child welfare information system by ending the funding in the adoption assistance case and terminating the adoption assistance. Case contacts must be documented in the foster care case and the adoption case. The adoption case must be closed due to Adoption Disruption.

2.17.8 Changes Due to Adoption Dissolution and TPR

When dissolution happens due to the adoptive parent's parental rights being terminated or by voluntary relinquishment, the family is no longer entitled to adoption assistance payments. If the adoption dissolved through termination of parental rights or voluntary entrustment, the [Adoption Assistance Agreement](#) must be terminated effective the date of when the agency assessed the parents were no longer able to commit to the child and no longer were providing financial support. This can happen prior to the point of a TPR or signing the voluntary entrustment agreement.

The LDSS must update the child welfare information system by ending the funding in the adoption assistance case and terminating the adoption assistance. Case contacts must be documented in the adoption case. The adoption case must be closed due to Adoption Dissolution.

If a child is subsequently matched with another adoptive family, a new [Application for Assistance](#) form with the required documentation must be submitted, a new [Adoption Assistance Agreement](#) must be negotiated, and a new Adoption case must be opened.

If the child were title IV-E eligible, they would continue to maintain their eligibility status for any subsequent adoption.

2.17.9 Death of Adoptive Parents

If a child is adopted by a married couple and both individuals are deceased, the Adoption Assistance Agreement will terminate the last day of the month of the death of the second parent being party to the agreement. If a child is adopted by a single individual, adoption assistance will terminate the last day of the month of the death of

the individual. Adoption assistance will be paid for the entire month the individual died. Adoption assistance does not automatically transfer to the guardian of the child.

If the guardian of the child decides to adopt the child and receive adoption assistance, it is not necessary for the appointed guardian to qualify as a foster/adoptive parent in accordance with approval standards defined in Virginia Foster and Adoptive Family Home Approval Guidance; however, the guardian must meet the background check requirements. In addition, the child must be assessed as having special needs.

The adoption assistance rate will be based on the needs of the child at the time the child is adopted by the guardian.

The LDSS will negotiate the Adoption Assistance Agreement, following the predefined process for applying and negotiating all adoption assistance applications.

2.17.9.1 LDSS Actions When Adoptive Parents Die

When both parents are deceased in a two-parent family, or one parent is deceased in a single parent family, the Adoption Assistance Agreement must be terminated. The child's former adoptive parents may have specified a new adoption plan for the child upon their death or another family member may assume custody of the child and then initiate adoption proceedings independent of a CPA. When the child is without a custodian, custody is given to another relative or the child enters foster care as a result of the adoptive parents' death.

The following criteria apply for adoption assistance in the subsequent adoption:

- When the child was eligible for title IV-E adoption assistance in the previous agreement, the child may retain eligibility for title IV-E adoption assistance in the subsequent adoption. The child does not have to re-enter foster care for his or her eligibility for title IV-E adoption assistance to continue.
 - When the new adoptive parents reside in Virginia, the LDSS that had responsibility for the initial Adoption Assistance Agreement continues to have responsibility for adoption assistance in the subsequent adoption.
 - The LDSS must not re-determine the child's eligibility for title IV-E adoption assistance payments.
 - When the LDSS establishes that the child received title IV-E maintenance payments from a previous Adoption Assistance Agreement, the child continues eligibility for title IV-E adoption assistance from the previous adoption.

- The LDSS manages the application, assessment, and negotiation process with the new adoptive parents.
- The LDSS and adoptive parents execute a new Adoption Assistance Agreement when the LDSS determines it is appropriate.
- Payments and services delineated in the new agreement may begin when the petition is filed in circuit court to finalize the adoption.
- Non-recurring adoption expenses are allowable as part of the agreement.
- When the new adoptive parents reside in another state with the child, and the LDSS is not involved in the subsequent adoptive placement of the child, the subsequent state of residence for the new adoptive parents is responsible for establishing whether the child has special needs and entering into an Adoption Assistance Agreement. The state where the child was initially adopted, or the state that pays adoption assistance in the child's initial adoption, is not relevant in a subsequent adoption.
- The LDSS must provide necessary documentation about the child's prior eligibility for IV-E adoption assistance to the public child welfare agency in the new state. ([Social Security Act, Title IV, § 473 \(a\) \(2\) \(C\) \[42 U.S.C. 673\]](#)).

2.18 Interstate Compact on Adoption and Medical Assistance (ICAMA)

The LDSS is responsible for medical care and financial support from the date the child is placed in an out-of-state home until the adoption is finalized. The child's title IV-E eligibility, the receiving state's ICAMA reciprocity, the child's benefits, and the family's resources may impact finances and medical coverage. The LDSS should work with their ICPC Consultant to determine community resources available in the receiving state to assist the child and family.

Children receiving title IV-E adoption assistance are guaranteed to receive Medicaid in all states. However, children approved for Medicaid, whose adoption assistance is funded by state adoption assistance do not have this guarantee.

To determine if a child, may be covered in the receiving state refer to [Medicaid Cobra Reciprocity](#).

Virginia Medicaid will not be opened for children whose adoptive homes are located in another state.

For New Cases: *At case opening, the LDSS must complete the ICAMA Form 700, Notice of Medicaid Eligibility/Case Activation, and notify the child's state of residence that the Medicaid case should be opened in that state.*

For Virginia Children Moving to Other States:

When an adoptive child receiving adoption assistance moves from Virginia to another state, the adoptive parent must notify the LDSS to transfer the child's Medicaid to the new state of residence. The adoptive parent does not need to do anything besides inform the LDSS of the move. See Section [4.9.1 Address Changes](#) for additional information.

- Within seven calendar days after receipt of notification of the child's relocation or intent to relocate to another state, the LDSS must forward the following documents to the ICAMA Specialist in the State Office vaicpcoffice@dss.virginia.gov:
 - A cover letter summarizing the case; (for example, the family is moving, has recently moved, or the child previously received Medicaid in another state through foster care).
 - ICAMA [Form 700](#) VA Work Form. This includes the adoptive parent's telephone number and email address (notifies the new state of the child's eligibility for adoption assistance, which is the basis for the child's Medicaid eligibility).
 - ICAMA [Form 7.5](#) – Additional Children (used when there are two or more children in the family).
 - A copy of each child's Adoption Assistance Agreement.
 - A copy of the Final Order of Adoption (if available).
 - ICAMA [Form 7.5](#) - Information Exchange (This form provides notice that an adoption has been finalized, that the child has reached the age of majority, that the family has moved to another address in state, or that the family has moved to another state).
- The LDSS must send the adoptive parent a copy of the following forms:
 - [Form 7.02a](#) Notice of Action (to notify the parent that an application has been sent to their new state of residence on behalf of their child).
 - [Form 7.02b](#) Important Information for Families.
- The LDSS must notify the Medicaid Eligibility Specialist in their agency of the change so that the open Medicaid case can be closed.
- When Virginia is the receiving state in an adoption case from another state, and the LDSS's sole responsibility is to issue a Medicaid card, do not open an adoption assistance case in the child welfare information system.

2.19 Extending Adoption Assistance Past 18

Adoption Assistance terminates on the youth's 18th birthday unless the youth has a documented condition that warrants continuation of adoption assistance. The LDSS, in conjunction with the Assistance Negotiator, will make the determination.

The LDSS must notify the adoptive parents in writing, using the [Family Services Notice of Action and Rights to Appeal](#) form, **six months** prior to the youth's 18th birthday unless they submit, prior to the youth attaining age 18, documentation demonstrating that the youth has a condition that warrants continuation of adoption assistance, the agreement may be continued via completing an Amended Adoption Assistance Agreement. ([Social Security Act, Title IV, § 473 \(a\) \(4\) \(A\) \(II\) \[42 USC 673\]](#) and § [63.2-1302 B](#)). The terms of the agreement or addendum may be for any period after the youth's 18th birthday up to the youth's 21st birthday.

If the LDSS determines the youth does not have a condition that warrants continuation of the agreement beyond the youth's 18th birthday, the LDSS must notify the adoptive parents in writing. Notice must be made using the [Family Services Notice of Action and Right to Appeal](#) form at least 60 calendar days before the youth's 18th birthday that the agreement and subsequent payments will terminate on the youth's 18th birthday.

2.19.1 Criteria for Continuing Beyond 18th Birthday

To continue adoption assistance beyond age 18, the LDSS must determine if the youth meets both of the following criteria:

- The LDSS must establish one of the following that is listed on the original Adoption Assistance Agreement or *Addendum*:
 - The youth has a physical or mental disability that was present at the time of the adoption; or
 - The youth has a physical or mental disability that is related to a hereditary tendency, congenital problem, or birth injury; or
 - The youth has an educational delay resulting from either special need above.

AND

- The LDSS determines the youth requires ongoing treatment and intervention.
 - The youth requires treatment, intervention, or additional supervision and support from the adoptive parents to ensure the youth's safety and well-being; and/or

- The youth requires educational services to address the youth's educational delay and the youth is enrolled full-time in an educational, vocational, or technical training program (i.e., the youth is attending and actively participating in high school, institute of higher education, technical college, or community college).

Evidence of these two criteria must be based on the following documentation:

- Statements from qualified professionals documenting the youth's disability or educational delay and the youth's need for ongoing treatment and/or intervention.
- Relevant diagnostic and assessment reports.
- Any other relevant documentation that occurred within one year (e.g., VEMAT and supporting documentation; school performance reports).

The agreement should continue as long as the LDSS determines that the:

- Physical or mental disability, or educational delay resulting from such disability, continues to exist.
- Youth continues to require ongoing treatment or intervention.

When the LDSS determines the youth's condition warrants continuation of adoption assistance:

- Due to a physical or mental disability, then the LDSS must continue using the same fund source (i.e., title IV-E or state funds) for adoption assistance payments after the youth attains age 18.
- Solely due to an educational delay resulting from a mental or physical disability, then the LDSS must only use state funds for adoption assistance payments after the youth attains age 18, even when the maintenance payments were funded with title IV-E funds prior to age 18 (§ [63.2-1302 B](#)).

When the youth's condition warrants continuation solely due to an educational delay resulting from a mental or physical disability, then the agreement should be terminated when the youth **no longer**:

- Has the educational delay resulting from the mental or physical disability; or
- Requires educational services to address the youth's education delay.

When the youth is no longer cooperating or participating in educational or therapeutic services to address their needs, the LDSS must suspend the adoption assistance

payments. If the youth meets the criteria at a later time, the LDSS may resume payments for the youth at the previous agreed upon rate. The LDSS must notify the adoptive parents 60 days prior to suspending the payment using the [Family Services Notice of Action and Right to Appeal](#) form. The LDSS must inform the adoptive parent to contact the agency if their circumstances change.

2.19.2 Fostering Futures Eligibility Criteria

The Fostering Connections to Success and Increasing Adoptions Act of 2008 permits states to utilize title IV-E funding to provide foster care maintenance payments and adoption assistance for youth ages 18 to 21 under certain conditions. Youth adopted from foster care after age 16, may qualify for an extension of adoption assistance under Fostering Futures after reaching age 18, up to 21.

When the LDSS determines the youth is ineligible for continuation of adoption assistance beyond age 18, because they do not have a condition which would warrant continuation of adoption assistance, adoption assistance may continue for the youth when the following two criteria are met:

- The youth turned 18 on or after July 1, 2016; and
- The youth is subject to an Adoption Assistance Agreement that became effective after the youth reached the age of 16 years old.

In addition to meeting the above criteria, the youth must meet at least one of the five participation circumstances below:

- Completing secondary education or GED.
 - Examples include enrollment in a secondary school, e.g. public high school, alternative high school, private school, adult education classes, program leading to GED, or special education described in the IEP.
- Enrolled full-time or part-time (at least half-time) in an institution that provides post-secondary or vocational education.
 - Examples include remedial courses, coursework without formal admission to the institution, attendance at multiple institutions, or correspondence or on-line course affiliated with an accredited institution.
- Participating in a program or activity designed to promote employment or remove barriers to employment.
 - Examples include individualized activities based on an assessment of the youth's needs. These may be self-directed, completed on a one-on-one basis with a caregiver, or part of an organized program. They may also

include but are not limited to internships, volunteering, vocational rehabilitation, counseling, driver's education, less than half-time secondary education, or participating in a substance abuse program. Qualifying activities should clearly move the youth toward developing skills to help transition to education or employment leading to independence.

- Employed at least 80 hours per month.
- Incapable of engaging in any of the above activities due to a medical condition, i.e. a short-term or long-term physical health impairment or a mental/emotional or behavior health, developmental or cognitive disability or impairment that serves as a barrier which prevents the youth from consistently participating in employment and education.
 - The youth does not have to be currently receiving or seeking treatment or remediation for the medical condition.

In most cases, a medical condition which makes the youth incapable of participating would also make the youth eligible for the extension of adoption assistance due to a special need; and therefore, the youth would not be eligible under Fostering Futures. *However, the difference here is that the youth does not have to be currently receiving or seeking treatment under Fostering Futures program requirements.*

The LDSS with assistance of the Assistance Negotiator will make the initial determination whether the youth is eligible to continue the Adoption Assistance Agreement under Fostering Futures beyond the youth's 18th birthday.

Other Fostering Futures requirements which apply in extended foster care do not apply in extended adoption assistance: there are no voluntary agreements signed by the youth; service plans; biannual reviews; allowable placement settings; visits by a service worker; payments to the youth; court action; or title IV-E determination.

2.19.2.1 Documentation Required for Fostering Futures Eligibility

To determine initial eligibility, the adoptive parents' good faith statement of assurance that the youth will participate in secondary or post-secondary education, vocational program, employment, or job-readiness preparation as described above should be accepted. Therefore, the adoptive parent must certify on the annual affidavit whether the youth is continuing participation, including the type and status, and submit documentation verifying the youth's involvement in one or more participation conditions.

Initially, the youth's inability to participate due to a medical condition must be verified by a statement from a medical doctor provided by the adoptive parent. Thereafter, the adoptive parent must certify on the annual affidavit whether the youth continues to be unable to participate due to the medical condition, and submit documentation verifying the youth's continued medical condition.

2.19.2.2 Fostering Futures Addendum

If the youth is eligible for an extension of adoption assistance under Fostering Futures, the LDSS must prepare an Addendum to the Adoption Assistance Agreement reflecting the continuation of maintenance payments to the adoptive parents and citing the required conditions of participation. If an enhanced maintenance payment is in effect, payment must continue at the same level unless the adoptive parent agrees to a reduction.

If a youth eligible under Fostering Futures was receiving title IV-E adoption assistance prior to age 18, title IV-E assistance must continue without further determination; if the youth was receiving state adoption assistance, state assistance must continue without further determination.

Continued eligibility will be determined by the annual affidavit submitted by the adoptive parents on the anniversary of the effective date of the Adoption Assistance Agreement. The affidavit must certify the youth's compliance with one of the participation conditions and provide documentation of the youth's participation throughout the year.

2.20 Payments and Services

Payments and services must only be provided to parents who have entered into a written, signed, and executed Adoption Assistance Agreement on behalf of an adopted child with special needs and the payment and service is specified on the agreement or addendum.

All adoption assistance payments (this includes maintenance, non-recurring, and special services) must be recorded in the LDSS accounting system of record, LASER, and in the child welfare information system. Payments are reported in LASER in order for the LDSS to receive state and federal reimbursements for expenditures already incurred using local funds. Monthly costs are reported in the automated system in order to provide both the state and federal governments a liability estimation, an of expenditure projections, and because the automated system is the official system of record for the case.

Once the Adoption Assistance Agreement is executed and the child is adopted, the adoptive parents have the right to make decisions on behalf of the child without further LDSS approval or oversight and may use adoption assistance funds as they determine appropriate. The only exception to this statement is when special services payments are

made. While parents continue to have the right to make decisions related to the child, special services payments must be used and monitored in accordance with the negotiated and agreed upon terms delineated in the signed Adoption Assistance Agreement and any addendum in effect.

2.20.1 Beginning Services and Payments

LDSS must begin utilizing adoption assistance funds on the first calendar day of the month following the month in which all parties sign the agreement or addendum. A final order of adoption is not necessary to begin making payments or reimbursing expenses.

In the event that the LDSS begins making adoption assistance payments prior to the final order of adoption, the LDSS cannot continue utilizing foster care funding or services once the Adoption Assistance Agreement is effective. This includes:

- Foster care supplemental clothing allowances,
- Case management, and
- Any services not specified on the Adoption Assistance Agreement.

For the eligible child who is not in foster care with the LDSS or LCPA, adoption assistance payments must begin on the first calendar day of the month following the month in which the petition for adoption has been filed and all parties have signed the Adoption Assistance Agreement. This includes the child who is being subsequently adopted after the adoptive parents die, child of title IV-E foster child (when the child is eligible for adoption assistance), and the SSI eligible child.

It is the service worker's responsibility to:

- Enter the appropriate type of agreement, type of payment, effective date, renewal date, and any other key dates for all payments into the child welfare information systems that the child and payments appear appropriately on the Adoptive Children Report.
- Accurately communicate changes, the appropriate funding source, and financial coding to the individuals responsible for entering all financial information into the LDSS accounting system of record and LASER.
- Notify CSA, if necessary, of the funding change.
- Convey to the LDSS staff responsible for Medicaid any changes that may impact Medicaid eligibility.

2.20.2 Reconciling Foster Care Payment Records

When the final order is received, the LDSS must reconcile the payments made for the child to ensure that no title IV-E foster care funds (those reported under budget line [BL] 811) were used beyond the final order date. If any payments were made after the date on final order of adoption, the LDSS must make an adjusting accounting entry in LASER to refund the overpayment to BL811 and to charge the reported payments to either BL812 (title IV-E adoption assistance) or BL817 (state adoption assistance), whichever is appropriate based on the eligibility determined in the Adoption Assistance Agreement process.

For families who do not have a signed Adoption Assistance Agreement, the LDSS must make an adjusting accounting entry in LASER to shift the overpayment from Fund 1111, Reimbursable, to Fund 0033, Local-Only. It is up to the LDSS to determine if and how to recover the local only funds from the previous foster parents.

This is one of a few situations where prorating is required. Using BL811 funding until the end of the month after a signed final decree will create a title IV-E error as at the signing of the final adoption decree the child is no longer in foster care.

2.20.3 Making and Reporting Maintenance Payments

Maintenance payments must be made directly to the parents and documented in the child welfare information system on an annual basis with the exception of when the maintenance payment increases due to the child reaching a higher age grouping or when there are statewide increases, which results in an update in the automated system ([22 VAC 40-201-161 E 1d](#)).

When the adoptive parents have requested to receive less basic maintenance than the maximum available rate, the LDSS increases the agreed upon payment amount by the same percentage amount used to calculate the increase in the maximum foster care maintenance payments, as documented in the Adoption Assistance Agreement.

Additionally, in order to receive reimbursement from VDSS, the local departments must report maintenance payments in LASER for all children to the appropriate BL and cost code. Additional information regarding adoption budget lines and cost codes are available on FUSION page [Budget Lines & Cost Code Descriptions](#).

For title IV-E funded Adoption Assistance Agreements executed prior to December 1, 2009 that are still in effect and meet all of the following criteria, the LDSS should report the additional daily supervision payments as enhanced maintenance under cost code 81203. In the event that all the criteria are not met, the LDSS must report these additional daily supervision payments as special service payments under BL817 and cost code 81701.

For state funded Adoption Assistance Agreements executed prior to December 1, 2009 that are still in effect and meet all of the following criteria, the LDSS should report the additional daily supervision payments as enhanced maintenance under cost code 81703. In the event that all the criteria are not met, the LDSS should report these additional daily supervision payments as special service payments cost code 81701. The effective date of the new maintenance rate will be the first of the month following the child's birth date. If the child's birth date is the first of the month, then the payment will increase on the date of the child's birth date.

There is no need for the LDSS and adoptive parents to execute an addendum to the existing agreement for the increased basic maintenance payment amount. The LDSS must inform the adoptive parents in writing of the reason for the increase, new amount, and effective date for the increased basic maintenance payment.

Maintenance funded child care payments are paid as agreed upon on the Adoption Assistance Agreement for up to one year. The LDSS will report child care expenditures for title IV-E Adoption Assistance Agreements under BL812 and cost code 81201. For state Adoption Assistance Agreements, the LDSS will report child care expenditures under BL817 and cost code 81702. The LDSS cannot use cost code 81701 (Purchase of Services) for maintenance funded child care.

2.20.4 Making and Reporting Non-Recurring Expense Payments

Reimbursement for nonrecurring expenses must be made by the LDSS directly to the adoptive parents ([Social Security Act, Title IV, § 473 \(a\) \(1\) \(B\) \(i\) \[42 USC 673\]](#)).

Reimbursement must be for types of expenses delineated in the Adoption Assistance Agreement and must:

- Not exceed \$2,000 per child per adoptive placement.
- Be reported in LASER under BL812 and cost code 81202 regardless of whether the child is eligible for title IV-E or state maintenance payments (see the Finance Guidelines Manual).
- Be based on actual costs of services ([22 VAC 40-201-161 E 3](#)). Costs must be documented in bills and receipts submitted to the LDSS by the adoptive parents.
 - The actual costs may differ from the estimated costs in the agreement.
 - The adoptive parents must submit copies of bills and receipts no later than two years after the expense was incurred ([45 CFR 1356.41 \(e\) \(3\)](#)).

- Adoptive parents may incur the non-recurring costs before signing the agreement; however, the reimbursement will not occur until after the agreement is signed by all parties (example: child specific home study).

Payments for non-recurring adoption expenses may be made on behalf of the child in an adoptive placement before the final order of adoption when there is an Adoption Assistance Agreement in effect between the LDSS and the adoptive parents ([22 VAC 40-201-161 E 3b](#); and [Federal Child Welfare Policy Manual, Subsection 8.2D.3 #6](#)). If the adoption disrupts, non-recurring expenses incurred must be paid to the adoptive parents in accordance with the Adoption Assistance Agreement.

Non-recurring adoption expenses may then be provided on behalf of the child in a subsequent adoptive placement when the LDSS establishes the child has special needs, is eligible for adoption assistance, and a new Adoption Assistance Agreement is executed.

LDSS must maintain bills and receipts submitted by the adoptive parents for reimbursement in the child's adoption assistance case record.

2.20.5 Making and Reporting Special Service Payments

Special services payments must be paid solely from state funds, regardless of whether the child is eligible for title IV-E or state adoption assistance maintenance. The LDSS must report payments in LASER under BL817, cost code 81701 (see the Finance Guidelines Manual).

- The LDSS may reimburse the adoptive parents or pay the service provider directly. The adoptive parents carry ultimate liability for paying expenses incurred for which they agree to pay directly.
- A bill or receipt documenting the actual cost of services must be submitted to the LDSS before payment is made to the service provider or adoptive parents. The adoptive parents should submit bills or receipts within 30 calendar days of incurring the expense. The LDSS must inform adoptive parents of local payment procedures on time limits for paying bills or receipts submitted after 30 calendar days.
- All special services payments must be entered in the child welfare information system *Adoption Assistance Screen*. They must not be included with adoption assistance maintenance payments.
- The LDSS is not responsible for any special services expenses that have not been agreed upon and documented in the signed agreement or addendum in effect at the time the service occurred.
- The adoptive parents must be responsible for payments when:

- Expenses are incurred by the adoptive parents before the agreement or addendum.
- The adoptive parents utilize different services, utilize services for a more extended period, or exceed the costs for services documented in the agreement or addendum.

They continue using a service past the specified timeframe ending the service in the agreement or addendum.

2.20.6 Making and Reporting Fostering Futures Payments

Fostering Futures adoption assistance is used to extend adoption assistance services and support to youth ages 18 up to 21. The existing Adoption Assistance Agreement determines if Fostering Futures will be title IV-E or state funded.

The addendum for Fostering Futures should be completed 30 days before the youth's 18th birthday. The approval and Budget Reporting System (BRS) request for the change to Fostering Futures adoption assistance must occur within 30 days of the child's 18th birthday.

On the youth's 18th birthday, the BL item will change to Fostering Futures 815 (title IVE) or 817 (state), depending on the type of Adoption Assistance Agreement. The former BL item and Fostering Futures BL item will be prorated if the youth's date of birth is not on the 1st day of the month. These changes will be documented in the child welfare information system. The renewal date will be the date the annual affidavit is due, which is the anniversary of the effective date of the Adoption Assistance Agreement. If the Adoption Assistance Agreement or addendum are not signed and executed by the youth's 18th birthday to reflect the extension of adoption assistance using Fostering Futures, adoption assistance is terminated. The LDSS must follow the termination procedures in [Section 2.16](#).

2.21 Maintaining Responsibilities

As delineated in the binding Adoption Assistance Agreement, the adoptive parents and the LDSS maintain ongoing responsibilities.

2.21.1 Responsibilities of Adoptive Parents

The adoptive parents who receive adoption assistance payments must:

- Notify the LDSS when their address changes.
- Inform the Social Security Administration when the child is receiving both SSI and adoption assistance payments.

- Submit an annual affidavit to the LDSS within 30 days of the anniversary date of the Adoption Assistance Agreement (i.e., the effective date stated in the agreement) (§ [63.2-1302 C](#)).
- Provide the child's school enrollment status when the child reaches the age of compulsory school attendance ([Social Security Act, Title IV, § 471 \(a\) \(30\) \[42 USC 671\]](#)).
- Notify the LDSS if the child is incapable of participating in school full-time due to a medical condition ([Social Security Act, Title IV, § 471 \(a\) \(30\) \[42 USC 671\]](#)). Submit documentation by a qualified professional and submit quarterly updates on the child's medical condition to the LDSS.
- Notify the LDSS when there are changes in the child's special needs and the family circumstances of the adoptive parents that may change the amount of adoption assistance the child receives:
 - The child is receiving Social Security payments.
 - The amount of additional supervision and support the child requires from the adoptive parents changes.
 - One of the adoptive parents in a two-parent family becomes disabled, dies, or the adoptive parents become divorced.
- Notify the LDSS immediately, and in writing, when the child is no longer eligible for adoption assistance:
 - The adoptive parents are no longer legally responsible for the child's care.
 - The adoptive parents are not providing financial support for the child.
 - The child becomes an emancipated minor, is married, is deceased, or enlists in the military.
 - The adoptive parents are deceased (i.e., two parents die in a two-parent family, or one parent dies in a one-parent family). The adoptive parents should make arrangements for the LDSS to be notified in the event of their death [Social Security Act, Title IV, § 473 \(a\) \(4\) \[42 USC 673\]](#); § [63.2-1302 C](#); and [Federal Child Welfare Policy Manual, Subsection 8.2D.5](#)).
- Submit copies of bills and receipts for expenses that the LDSS pays related to non-recurring adoption expenses and special services payments.

2.21.1.1 Receiving Enhanced Maintenance Prior to Finalization

Adoptive parents (who have negotiated and signed an Adoption Assistance Agreement but where the adoption is not yet finalized) may receive enhanced maintenance payments when they commit to adopting a child into their family whose needs may require a greater level of adult supervision and support than other children either short or long-term.

Adoptive parents are expected to provide the support and supervision required for their children to remain safe and have the opportunity to build on their strengths and progress in their development. Other partners such as the school, therapists, mentors, in-home providers, service workers, and others will help the child address areas of need. As a result, the LDSS must identify the specific requirements for support and supervision expected from the adoptive parent, which may include but is not limited to:

- Participate in and cooperate with the LDSS and LCPA in meetings or visits to achieve the child's goal of adoption.
- Discuss and follow through on services necessary for them and the child to maintain their safety, well-being, and preparation for adoption.
- Assume responsibility for managing the daily supervision and supportive tasks a child may need.
- Discuss with the agency any difficulties in understanding or managing the child's needs and any training needs or other supports that would help improve their ability to parent the child and effectively meet the child's needs.
- Actively participate in furthering the adoption finalization process.

2.21.2 Responsibilities of LDSS Managing Adoption Assistance Case

The LDSS that is responsible for adoption assistance must:

- Maintain responsibility for payments and services as specified in the Adoption Assistance Agreement and any addendum in effect, regardless of where the adoptive parents and the child reside.
 - When the adoptive parents move to another Virginia locality, the LDSS may request assistance from the LDSS or another child serving agency (e.g., LCPA, community services board) in the locality in providing services delineated in the Adoption Assistance Agreement. The LDSS remains responsible for the payment of services, when applicable.

- When the adoptive parents move to another state, they may apply for special services on behalf of the child in their new state of residence. When the child requires a service specified in the original Adoption Assistance Agreement with the LDSS that is not available from the public child welfare agency in the new state, the LDSS remains responsible for payment of the specified service ([45 CFR 1356.40 \(d\)](#)).
- Assist the adoptive parents in coordinating services to meet the child's special needs on the Adoption Assistance Agreement upon request.
- Provide services to prevent disruption and strengthen family well-being when requested, such as:
 - Crisis intervention.
 - Assessment.
 - Counseling, support, and advocacy.
 - Information and referral to appropriate services and providers.
 - Referral to the Adoption Family Preservation (AFP) Program.
 - Adoption assistance services directly related to meeting the child's special needs.
- Discuss with the adoptive parents the child's unique needs and their ability to manage the child's needs. If needed, training is available as part of an already-established curriculum (e.g., PRIDE), the adoptive parent should be directed to attend that training. If the needed training requires access to other training sources (e.g., attending specialized training on gavage feeding or autism), the agency must identify the training source and assist the adoptive parent in accessing the training.
 - LDSS are encouraged to contact their CRAFFT Coordinator and Adoption and Family Recruitment Consultants as sources of support in locating or providing training resources.
 - The cost of training is an agency responsibility. The LDSS may pay the cost of such training through title IV-E training funds when the VDSS has approved the training through the LDSS' title IV-E training plan.
 - Assess requests for addendums to the Adoption Assistance Agreement from the adoptive parents.
- Inform adoptive parents in writing that they have the right to appeal decisions related to granting, denying, changing, or discontinuing adoption assistance

- payments and services within 30 days of receiving written notice of the LDSS' decisions.
- Notify the adoptive parents who are receiving adoption assistance in writing when:
 - The annual affidavit is due.
 - The child has reached a higher age grouping in foster care policy, or there are statewide increases in the basic maintenance adoption assistance payments, and their payment is being increased as delineated in the Adoption Assistance Agreement, 60 days before the increase, using the [Family Services Notice of Action and Right to the Appeal](#) form.
 - The child has a basic or enhanced maintenance payment that is time-limited.
 - The Adoption Assistance Agreement is terminated.
 - Maintain the child's adoption assistance case in the child welfare information system and the child's adoption assistance case record, including documenting any contacts made with the adoptive parent in the Adoption Case Contacts screen in the child welfare information system.

There is no redetermination of title IV-E eligibility for adoption assistance. When the child is receiving title IV-E adoption assistance, there is no need for the LDSS to re-determine the child's eligibility for title IV-E adoption assistance. Once the child has been determined eligible to receive title IV-E adoption assistance, the child's eligibility continues until the Adoption Assistance Agreement is terminated. While the child's initial eligibility may be based on the child's eligibility for other programs that require redeterminations (e.g., Medicaid, Aid to Families with Dependent Children, and SSI), redetermination is not necessary for maintaining the child's eligibility for title IV-E adoption assistance ([Federal Child Welfare Policy Manual, Subsection 8.2B.9 #1](#)).

2.21.2.1 Paying Enhanced Maintenance Prior to Finalization

After signing the Adoption Assistance Agreement until finalization, the LDSS must provide additional support and assistance to adoptive parents who have children placed in their homes where enhanced maintenance payments are made. Such assistance is critical in avoiding placement disruptions and ensuring that adoptive parents have the guidance and tools to understand the child's needs and provide appropriate support while ensuring the child's safety. Agency supports provided include at a minimum:

- A caseworker and a supervisory-level services worker must be available to the caseworker twenty-four hours a day, seven days per week, to provide direction and assistance as necessary.
- The LDSS may provide these services directly or may contract with private agencies or individuals to provide these services.
- The LDSS may also share access to an on-call worker and supervisor to meet these criteria.
- Monthly face-to-face contact with the adoptive parents by a service worker. The monthly contacts should focus on:
 - The adoptive parents' relationship with and perceptions of the child in care including such things as:
 - Their attachment to the child.
 - The child's strengths and progress in all life domains.
 - Any concerns the parent has about the child's behavior.
 - Needs or their ability to work with the child.
 - The impact of having the child in their home.
 - The need for additional training, services, or agency support.
 - Discussion about the adoptive parents and the child's special needs.
- The expectation for how the adoptive parent is to address the needs of the child. This must include the specific support and supervision activities to be conducted by the adoptive parent that is required to meet the child's needs.

2.21.3 Responsibilities of LDSS Where Adoptive Parents Reside

When the adoptive parents and child live in a different locality from the LDSS responsible for adoption assistance, the LDSS responsible for adoption assistance is responsible for coordinating activities related to the Adoption Assistance Agreement in collaboration with the adoptive parents. The LDSS in the locality where the adoptive parents reside should assist the LDSS with responsibility for adoption assistance when requested by the LDSS.

When the adoptive parents request assistance related to the Adoption Assistance Agreement, the two agencies should establish a collaborative process of coordinating assistance that most effectively meets the child's special needs. This process should

include strategies for communicating information, including services requested, actions are taken, and any issues that need to be resolved.

When requested, the LDSS in the locality where the adoptive parents reside should assist the LDSS that has responsibility for adoption assistance in:

- Obtaining family-based and community services for the child related to the Adoption Assistance Agreement, such as:
 - Providing information and referral.
 - Identifying appropriate services and supports.
 - Arranging for a Family Partnership Meeting with appropriate resources available in the community.
 - Providing service coordination through FAPT, including:
 - Arranging the team meeting.
 - Notifying the adoptive parents of the date and time.
 - Providing information and supporting documents about the child and family to the team collaborates with the adoptive parents.
 - Presenting the case to FAPT and participating in the meetings.
- Providing foster care prevention services when the adoption is at risk of dissolution to prevent the child from entering foster care, such as:
 - Crisis intervention.
 - Assessment.
 - Counseling, support, and advocacy.
 - Information and referral to appropriate services and providers.

If the adoption dissolves, the LDSS where the adoptive parents reside may receive the child's custody due to a judicial determination, entrustment, or non-custodial foster care agreement. Therefore, it is important that the LDSS work closely with the LDSS that is responsible for adoption assistance.

The LDSS should work similarly in collaboration with the public child welfare agency from another state that is responsible for adoption assistance when the child resides in its locality.

2.21.4 Responsibilities of LDSS When Abuse or Neglect is Suspected

Allegations of abuse and neglect in the adoptive family must be treated the same as any other such reports, in accordance with the [Chapter C. Child Protective Services of the VDSS Child and Family Services Manual](#).

In the event that the child is removed from the adoptive home and brought into foster care, the LDSS will follow steps outlined in the Division of Child Support Enforcement Program Manual in determining if child support will be collected from the parents.

The LDSS and Assistance Negotiator must attempt to renegotiate the Adoption Assistance Agreement for the duration the child is in foster care. If the adoptive parents are not providing financial support, refer to [Section 2.16.1 Reasons for Terminating Adoption Assistance](#) for guidance on LDSS actions when adoptive parents fail to provide financial support. If termination of parental rights on the adoptive parents occurs, adoption assistance payments must be terminated, and the parents are notified in writing of the termination and their right to appeal.

2.22 Establishing a Case Record

When the LDSS receives an application, the LDSS must establish an adoption assistance case record for the child. This record is separate from the child's foster care record, the record established for the adoptive family's foster/adoptive home approval, and any eligibility record established by the Benefits Programs unit.

The adoption assistance case record is the child's service record and corresponds to the child's adoption case in the child welfare information system and the LDSS financial system of record.

It must include documentation in all areas described below. Specific documentation required is listed in the [Checklist for Child's Virginia Adoption Assistance Case Record](#):

- Age and citizenship documentation
- Documentation used to verify special needs criteria
- Reasonable efforts verification
- Applicable court orders
- Adoptive parents approval documents
- Application for adoption assistance

- Negotiation documents
- Appeals documents
- Annual Affidavits
- Service Requests and Recommendations
- Any other relevant information

2.23 Appeals and Fair Hearings

Appeals must be processed in accordance with Virginia legal requirements (§ [63.2-1304](#) and [22 VAC 40-201-161 O](#)) and procedures established by the Virginia Board of Social Services. For complete information, see the [Appeals and Fair Hearings Unit Procedure Manual](#).

Any applicant or recipient of adoption assistance has the right to request a hearing whenever adoption assistance benefits are denied, delayed, suspended, reduced, or terminated or when the processing of an Application for Assistance is unreasonably delayed (§ [63.2-1304](#)). There is no right to appeal a decision that provides adoptive parents with a maximum allowable monthly payment.

Other than a few limited exceptions, adoption assistance eligibility is lost if the Adoption Assistance Agreement is not negotiated and signed before the consummation of the adoption.

To overturn an LDSS determination denying adoption assistance eligibility through an administrative review, the adoptive parents must establish that the determination was contrary to applicable federal or state law, rule, procedure, or policy, as applied to the facts stated in the application or otherwise found by the LDSS based on the documentation submitted or available in LDSS records at the time of application.

2.23.1 Retaining Title IV-E Eligibility After Finalization

To retain title IV-E adoption assistance eligibility, the adoptive parents must be provided the opportunity to apply for adoption assistance and subsequently be denied for adoption assistance. This is true even when the LDSS has recognized an error in the initial determination and processing of the adoption assistance case.

Only after the adoptive parent has requested a hearing and shown that there is good reason to excuse the failure to have a fully executed Adoption Assistance Agreement can title IV-E eligibility be considered. The LDSS responsibility for fair hearings in title IV-E cases, is outlined in [45 CFR 1355-30](#).

Conditions that warrant this hearing:

- *The child was placed for adoption, and the LDSS did not inform the adoptive parent of the adoption assistance program before the adoption was final;*
- *The LDSS knew facts relevant to the child's eligibility for adoption assistance but did not disclose the information to the adoptive parents before the adoption was finalized; or*
- *The child's physical, mental, or emotionally disabling condition could not be diagnosed before the adoption but was later diagnosed by an appropriately qualified and licensed professional as having existed before the consummation of the adoption.*

2.23.2 Timeframes and Filing Requests for Appeals

The applicant may appeal the decision within 30 calendar days after receiving written notice of the decision. The written notice must inform the applicant of the 30-day time limit for the appeal (§ [63.2-1304](#)).

A person acting on behalf of the adoptive parents (e.g., a relative, friend, or an attorney) may act as their authorized representative and request the hearing.

Requests for appeals must be submitted in writing to:

Appeals and Fair Hearings Unit
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

The LDSS must not prejudice or limit the adoptive parents' right to appeal a decision. The LDSS must assist the adoptive parents in submitting an appeal or preparing the adoptive parents' case, if necessary. The LDSS has an affirmative duty to provide information and referral services to help the adoptive parents use any legal services available in the community.

2.23.3 Validating the Appeal

The LDSS will receive a copy of the adoptive parents' appeal request and a validation form from the Appeals and Fair Hearings Unit. The LDSS must specify:

- The action was taken by the LDSS.
- The date of the notice of action.

- Whether or not adoption assistance has been continued during the appeal process.

The LDSS must return the completed validation form and a copy of the Notice of Action within **five calendar day** to the hearing officer.

When the hearing officer determines the appeal request is valid, the LDSS and adoptive parents are notified in writing of the date for the Administrative Hearing.

Written notice of the hearing date is provided at least **ten calendar days** before the hearing of the date for the Administrative Hearing.

The notice includes information about the appeal rights of the adoptive parents. The hearing is scheduled and conducted at a time, date, and place convenient to the adoptive parents. It is usually conducted by teleconference. The hearing officer will order continuation of adoption assistance where required, if the LDSS has not already taken such action.

When the hearing officer determines the appeal request is invalid, the LDSS and adoptive parents receive written notification with an explanation of the reason for the determination that an Administrative Appeal Hearing cannot be granted.

A copy of the completed validation form, the Notice of Action, and the written notification from the hearing officer must be placed in the child's adoption assistance case record.

2.23.4 Summary of Facts

Upon receiving notification of the scheduled Administrative Hearing, the LDSS must prepare a [Summary of Facts](#) of the case. The hearing officer and adoptive parents should receive a copy of the summary at least five calendar days before the hearing. The summary should include:

- Identifying case information.
 - Name of LDSS.
 - Name and address of the child and adoptive parents.
 - Adoption assistance case number.
 - All relevant information about the action being appealed.
 - Statement of the issue (e.g., the specific request of the adoptive parents that was denied; the determination by the LDSS; the type, amount, and date of adoption assistance payment and service that was denied; the alleged failure of the CPA to act).

- The logical, chronological sequence of events which led to the action taken by the LDSS (e.g., specific dates; agency requests for verification; actions that occurred or did not occur; LDSS actions to resolve the issues). The LDSS should assume that the reader is not familiar with the facts of the case or the program policy.
- Description of specific calculations and policy or guidance used to determine adoption assistance amounts, when applicable. If exact figures are disputed, the reasons underlying the dispute must be addressed.
- Adoptive parents' request for and date of appeal, including quoted words from adoptive parents regarding the issue and their appeal reasons.
 - Specific citations and language quoted from the law, policy, and the guidance manual on which LDSS action was based.
 - If applicable, relevant provisions of the Adoption Assistance Agreement (e.g., dollar amount, number of hours, number of service units, time authorized, conditions).
 - Copies of all other relevant documentation regarding the action being appealed (e.g., documents submitted by adoptive parents, notices, adoption assistance forms, worksheets, letters).
 - Signature of LDSS Director and date.

The [Summary of Facts](#), including all attachments, must be signed and sent to the adoptive parents, their representative if any, and the hearing officer.

A copy of the [Summary of Facts](#) must be placed in the child's adoption assistance paper case record.

2.23.5 Administrative Hearing

The formal administrative hearing is conducted by the VDSS hearing officer. The hearing officer is an impartial person charged by the Commissioner to hear appeals and decide if the LDSS followed policy and procedure in making a decision.

At the hearing, the adoptive parents and their authorized representative will have the opportunity to:

- Examine all documents and records used at the hearing.
- Present the case.
- Bring witnesses.

- Establish pertinent facts and advance arguments.
- Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

The LDSS will have the opportunity to:

- Clarify or modify its statements contained in the [Summary of Facts](#).
- Question the adoptive parents and their witnesses on the salient issues.
- Examine all documents submitted by the adoptive parents or their authorized representative.

Only relevant evidence related to the issues being appealed is admissible at the hearing.

There is a legal presumption that the LDSS acted in accordance with law and policy and the burden of proof is on the adoptive parents to demonstrate the LDSS' error.

The decision of the hearing officer must be based exclusively on the evidence (i.e. documents or testaments) introduced at the hearing, and on all applicable laws, regulations, policies, and guidance manuals.

The hearing officer must notify the LDSS and adoptive parents in writing of its decision on the appeal within 60 calendar days following the date the appeal request was received by the VDSS, except when a postponement was requested. If the hearing was postponed, the time limit will be extended for as many days as the hearing was postponed.

The decision of the hearing officer is final and binding when the decision is mailed to the LDSS and adoptive parents. The LDSS must ensure that administrative action is taken to implement the hearing officer's decision no later than ten calendar day following the date of the decision, regardless of whether the adoptive parents request further review by the Circuit Court. See the [Appeals and Fair Hearings Unit Procedure Manual](#) for exceptions to implementation within this time period. After corrective action is taken, the LDSS must notify the adoptive parents and the hearing officer in writing that the agency has complied with the decision. All documents from the hearing, the written decision of the hearing officer, and the LDSS written notice documenting compliance with the decision, when applicable, must be placed in the child's adoption assistance case record.

2.23.6 Withdrawal Statement

If the LDSS and adoptive parents resolve the issue at any time after the Appeals and Fair Hearings Unit receives the adoptive parents' request for an Administrative Review

Hearing, the adoptive parents must provide a written statement withdrawing the appeal request. The withdrawal statement is sent to the hearing officer with a copy to the LDSS. The withdrawal statement must be placed in the child's adoption assistance case record.

2.23.7 Appeal to the Circuit Court

The adoptive parents, aggrieved by the hearing officer's decision, may seek further review of the decision by the appropriate circuit court. The adoptive parents have 30 days from the date of service (the date they received the hearing officer's decision or the date it was mailed to the adoptive parents, whichever occurred first) to provide notice of their intent to file an appeal with the circuit court.

Written notice of intent to appeal the hearing officer's decision must be sent to:

Commissioner
Virginia Department of Social Services
801 East Main Street
Richmond, Virginia 23219-2901

In addition, the adoptive parents must file a written petition in circuit court in the locality where they live to perfect the appeal. The adoptive parents will not receive correspondence, nor will their adoption assistance continue. The adoptive parents send written notice to VDSS of their intent to appeal, as the hearing officer's decision is the final administrative action.

2.23.8 Filing a Complaint of Discrimination

If the adoptive parents believe they have been discriminated against by the VDSS or LDSS because of race, color, national origin, sex, age, or disability, the adoptive parents have the right to file a complaint of discrimination with the:

VDSS Civil Rights Program Administrator
801 E. Main Street, 8th Floor
Richmond, Virginia 23219

and

U.S. Department of Health and Human Services
Director, Office of Civil Rights
Region III 150 S. Independence Mall West – Suite 372
Philadelphia, Pennsylvania 19106-3499

For more information, see [VDSS Office for Civil Rights](#).

2.24 Legal Excerpts and Child Welfare Policy Manual

Adoption assistance is governed by Federal regulations and the laws and regulations of the Commonwealth of Virginia. The Child Welfare Policy Manual is not law but a reference manual containing citations to the law.

2.24.1 Adoption Incentives and Promoting Adoption Assistance

- [*The Preventing Sex Trafficking and Strengthening Families of Act of 2014*](#)
- [*Adoption Promotion Act of 2003 \(P.L. 108-145\)*](#)

2.24.2 Adoption Tax Credit

- [*Economic Growth and Tax Relief Reconciliation Act of 2001 \(P.L. 107-16\)*](#)
- [*Small Business Job Protection Act of 1996 \(104-188\)*](#)

2.24.3 Approvals of Prospective Adoptive Parents

- [*CFR TITLE 45 Sec. 1356.30 \(b\)*](#)

2.24.4 Extension of Medicaid Coverage

- [*Foster Care Independence Act of 1999 \(P.L. 106-169\)*](#)

2.24.5 Non-Recurring Expenses

- [*Social Security Act, Title IV, § 473 \(a\) \(1\), \(a\) \(3\), \(a\) \(5\), and \(a\) \(6\) \(A\) \[42 USC 673\]*](#)
- [*45 CFR 1356.41*](#)
- [*§ 63.2-1301 D*](#)

2.24.6 Race and Ethnicity

- [*Indian Child Welfare Act of 1978 \(P.L. 95-608\)*](#)
- [*Interethnic Placement Provisions \[of the Small Business Job Protection Act of 1996\] \(P.L. 104-188\)*](#)
- [*Multiethnic Placement Act \[of the Improving America's Schools Act of 1994\] \(P.L. 103-382\)*](#)

2.24.7 Special Needs Adoptions

- [Adoption Assistance and Child Welfare Act of 1980 \(P.L. 96-272\)](#)
- [Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 \(P.L. 93-247\)](#)
- [The Fostering Connections to Success and Increasing Adoptions Act of 2008](#)
- [Social Security Act, Title IV, § 473 \[42 USC 673\]](#)
- [45 CFR 1356.40](#)
- [§ 63.2-1300](#)
- [§ 63.2-1301 A](#)
- [§ 63.2-1301 B](#)
- [22 VAC 40-201-161](#)

2.24.8 State Funded Adoption Assistance

- [§ 63.2-1301 B](#)
- [§ 63.2-1302 B1](#)
- [22 VAC 40-201-161](#)

2.24.9 Terminating Adoption Assistance

- [Social Security Act, Title IV, § 473 \(a\) \(4\) \(A\) \[42 USC 673\]](#)
- [Child Welfare Policy Manual: Termination](#)
- [§ 63.2-1302 B](#)
- [22 VAC 40-201-161](#)

4

POST-ADOPTION SERVICES

TABLE OF CONTENTS

4.1	Introduction	3
4.2	<i>Post Adoption Support and Preservation</i>	4
4.3	<i>Program Service Models</i>	5
4.3.1	<i>Community Based Resources</i>	5
4.3.2	<i>Post-Adoption Consortium (PAC)</i>	6
4.3.3	<i>Prevention Services</i>	7
4.3.4	<i>In-Home Services</i>	7
4.3.5	<i>Promoting Safe and Stable Families</i>	8
4.3.6	<i>Comprehensive Services Act (CSA)</i>	9
4.3.7	<i>Funding for Special Services</i>	10
4.4	<i>Types of Special Services</i>	11
4.4.1	<i>Educational Advocate</i>	11
4.4.2	<i>Tutoring Services</i>	12
4.4.3	<i>Respite Services</i>	12
4.4.4	<i>Child Care</i>	13
4.4.5	<i>Level C Residential Treatment Centers (RTCs)</i>	17
4.5	<i>Providing Post-Adoption Services</i>	23
4.5.1	<i>LDSS Responsibilities</i>	23
4.5.2	<i>Who is Eligible</i>	24
4.5.3	<i>Assessing the Child and Family</i>	25
4.6	<i>Educational Services in the Public School System</i>	26
4.7	<i>Post-Secondary Education and Training</i>	28
4.7.1	<i>Education Training Voucher Program (ETV)</i>	28

4.7.2	<i>Chafee Services</i>	29
4.7.3	<i>Independent Living Services (IL)</i>	29
4.7.4	<i>Defraying the Cost of College</i>	29
4.8	<i>Renegotiating Adoption Assistance</i>	30
4.8.1	<i>Submitting a Request for Change</i>	31
4.8.2	<i>Timeframe for Acting on Request</i>	31
4.8.3	<i>Assessing Overall Request for Addendum</i>	32
4.8.4	<i>Assessing Relevant Components of Adoption Assistance</i>	32
4.8.5	<i>Executing the Addendum</i>	34
4.9	<i>Making Changes to the Adoption Assistance Agreement</i>	34
4.9.1	<i>Address Changes</i>	34
4.9.2	<i>Single Adoptive Parent Marries</i>	35
4.9.3	<i>Adoptive Parents Divorce</i>	35
4.10	<i>Adoption Dissolution</i>	36
4.10.1	<i>Role of LDSS Prior to Adoption Dissolution</i>	36
4.10.2	<i>Role of LDSS During Adoption Dissolution</i>	37
4.10.3	<i>Adoption Assistance and Adoption Dissolution</i>	38
4.10.4	<i>Obtaining Information After Adoption Dissolution</i>	38

4

PROVIDING SUPPORT POST-ADOPTION

4.1 Introduction

Children placed by the Local Department of Social Services (LDSS) often have special needs that may challenge an adoptive family's skill set and require specialized services after the adoption has finalized. The Department maintains a commitment to these children and their adoptive families until the child reaches age 18 or age 21. The LDSS assumes an obligation to maintain the adoptive placement by delivering post-adoption services to children and families adopted through public and private agencies, both domestic and international, after the adoption finalizes.

Post-adoption services provide a wide range of supports and services designed to respond to the family's needs after the finalization of the adoption. Adoptive families may request assistance for *various* needs, including managing loss and grief, trust and attachment, school *adjustments*, *post-institutionalization transitions*, and *making and maintaining birth family connections*.

The LDSS must incorporate adoption services and support into multiple areas of practice, including:

- *Early assessment of children and youth; and*
- *Gathering thorough background information on each child to share with the family during the full-disclosure period.*

This work involves both:

- *Preparing families thoroughly for adoption, and*
- *Providing families with information about available support before they finalize an adoption.*

This approach will help ensure that adoptive families are ready to meet their children's needs and continue supporting their child and family long after the adoption is finalized

[\(National Quality Improvement Center for Adoption and Guardianship Support and Preservation \[QIC-AG\], 2015a\).](#)

By assuring prospective adoptive parents that they will have needed support and services, LDSS can help alleviate a concern that might otherwise prevent families from adopting children from foster care.

4.2 Post Adoption Support and Preservation

After the finalization of an adoption, children become members of their respective communities and are entitled to receive all services and resources available to children in the community. There are many different types of support available to assist children and families. It is the responsibility of the child placing agency (CPA) to prepare adoptive parents for the challenges they may face and assist them in understanding how and where to seek help. This should be an ongoing process. The adoptive parents' awareness and basic knowledge of adoption can be enhanced during the preparation. However, they will likely be most receptive to specialized training or receiving other services once they have a child and can directly apply the knowledge to their family situations. The necessary expertise, understanding, perspective, and skills they need to successfully raise their adopted child are likely to be acquired through post-adoption services.

Adoptive families have a wide range of needs for services and supports, which vary in frequency from occasional support to intensive interventions. The CPA should communicate the array of post-adoption resources and services that are available, based on the family's location and type of adoption (private or public). These include informal resources, such as internet courses, and more formal affiliations with adoption organizations and/or therapeutic support groups. The services commonly requested by families can be grouped into the following categories:

- *Educational and informational services*
- *Clinical services*
- *Material assistance*
- *Support networks*

See [Job Aid: Providing Adoption Support and Preservation Services](#) on the FUSION page, which explains each of these categories in more detail.

Common barriers identified by agencies that impact their ability to provide effective services and impact families being able to access those services include:

- *Insufficient availability of post-adoption services,*
- *Scarcity of adoption-competent providers,*

- *Families' limited knowledge of service availability or effectiveness,*
- *Reluctance among parents that sometimes stems from unrealistic expectations and not wanting to appear as inadequate,*
- *Children or youth not cooperating with obtaining services,*
- *Affordability, and*
- *Limited accessibility due to location or hours.*

The goal of Virginia's post-adoption program is to reflect a continuum of services from pre-permanency education and the preparation of parents through post-permanency crisis intervention.

4.3 Program Service Models

Adoption support and preservation services are delivered through several service models, including the following:

- *Community Based Resources;*
- *Post-Adoption Consortium;*
- [Prevention Services/ In-Home Services;](#)
- [Promoting Safe and Stable Families;](#)
- [Children's Services Act \(CSA\); and](#)
- [Funding for Special Services.](#)

The LDSS must use the [Service Decision Making Tool](#) to determine the most appropriate course of action for families in need.

4.3.1 Community-Based Resources

Community Services Boards (CSB), health departments, and other governmental agencies often provide supportive services, which are available to residents of their respective jurisdictions. Families should explore using local services to assist in meeting their needs. While some needs are met through the family or community's resources, others require adoption-specific intervention. Specific programs designed to help children and families that are community-based, include:

- [Care Connection for Children](#) - Care Connection for Children is a statewide network of centers of excellence for children and youth with special health care

needs (CYSHCN) that provide leadership in the enhancement of specialty medical services; care coordination; medical insurance benefits evaluation, and coordination; management of the CYSHCN Pool of Funds; information and referral to CYSHCN resources; family-to-family support; and training and consultation with community providers on CYSHCN issues.

Children who are uninsured or underinsured are eligible to receive services from birth to age 21 years. The program covers children with special health care needs who have disorders that have a physical basis that has or are expected to last at least 12 months.

- [Infant Toddler Connection of Virginia](#) - The Infant & Toddler Connection of Virginia provides early intervention supports and services to infants and toddlers from birth through age two who are not developing as expected or have a medical condition that can delay normal development.

Early intervention supports and services focus on increasing the child's participation in family and community activities important to the family.

In addition, supports and services focus on helping parents and other caregivers know how to find ways to help the child learn during everyday activities. These supports and services are available for all eligible children and their families regardless of the family's ability to pay.

4.3.2 Post-Adoption Consortium (PAC)

The PAC is a program sponsored by the Virginia Department of Social Services, at no expense to families, to provide a variety of post-adoption services to children and families. Services are available to all families who have finalized adoptions of children ages 0 – 18 years old and reside in Virginia.

Services include:

- *Information, Referrals, and Advocacy;*
- *Case Management;*
- *Respite;*
- *Crisis Support;*
- *Training for Adoptive Parents; and*
- *Parent Support Groups*

For additional information on the PAC, contact your Regional Consultant.

4.3.3 Prevention and In-Home Services

The goal of prevention and in-home services is to strengthen families and ensure their children's safety, permanency, and well-being. Services are designed to prevent the occurrence or reoccurrence of child abuse/neglect from any caretaker and to prevent out-of-home care, including foster care.

The benefits of providing services to families in a strength-based, trauma-informed system that promotes protective factors include the following:

- *Families who identify their needs and seek help through preventive services are more likely to benefit quickly from services, and their children are less likely to be at risk of abuse and neglect and out-of-home care;*
- *Early involvement with the family reduces the likelihood of abuse and neglect, maintains permanency for the child, and preserves sibling groups;*
- *Strength-based family engagement empowers family members and increases their opportunity to be self-sufficient;*
- *Training and education to help parents understand child development, behavior management, stress management, attachment, and nurturing reduces adverse behavior problems and family conflict and improves family relationships.*

Prevention services must be offered to all adoptive families faced with the possibility of an out-of-home placement for their child or those who are considering adoption dissolution.

4.3.4 In-Home Services

In-Home services play an integral role in targeting resources and services that prevent entry into foster care and help children remain safely in their homes or with relative/kin caregivers. This work requires a skill set that focuses on family engagement, identifying individualized needs, creating and monitoring service plans and progress with families while continually assessing safety, risk, and protective capacities; and enhancing broader protective factors.

Attention to In-Home services case practice at both the supervisor and worker levels is needed to promote quality and uniform practice in the prevention of foster care.

The development of this framework is aligned with Virginia's broader strategic efforts which reflect key priorities in child welfare such as the [Child and Family Services Plan \(CFSP\)](#), [Child and Family Services Review \(CFSR\)](#), [Program Improvement Plan \(PIP\)](#), and [Family First](#) initiatives.

In-Home Services provide interventions and services to families that are based on the following principles:

- *Addressing child safety and risk factors;*
- *Preserving families by maintaining children safely in their own homes or with relative/kin caregivers in their communities;*
- *Preventing further abuse or neglect by strengthening the family's capacity to protect and nurture their children;*
- *Interventions and services that reduce or eliminate re-traumatization to children and families;*
- *Delivering interventions and services within the context of the family's own community culture and the child's current living arrangement; and*
- *Engaging children, youth, and families in the planning process while producing better well-being, safety, and permanency outcomes;*

As with prevention services, in-home services must be offered to all adoptive families if it is deemed most appropriate to best meet the family's needs.

4.3.5 Promoting Safe and Stable Families

The Promoting Safe and Stable Families (PSSF) Program is designed to assist children and families in resolving crises, connecting with necessary and appropriate services, and remaining safely together in their own homes whenever possible. This program helps more than 15,000 children and families each year. Services are provided to meet the following objectives:

- *Prevent or eliminate the need for out-of-home placements of children;*
- *Promote family strength and stability;*
- *Enhance parental functioning;*
- *Protect children; and*
- *Assess and make changes in state and local service delivery systems.*

The following services are available:

- **Family Preservation**

This helps families alleviate crises that might lead to out-of-home placements of children because of abuse, neglect, or parental inability to care for their

children. These services help maintain the safety of children in their own homes, support families preparing to reunify or adopt, and assist families in obtaining other services to meet multiple needs.

- **Family Support**

These are voluntary, preventive activities to help families nurture their children. These services are designed to alleviate stress and help parents care for their children's well-being before a crisis occurs. They connect families with available community resources and support networks that assist parents with child-rearing. Family support activities include respite care for parents and caregivers, early development screening of children to identify their needs, tutoring, health education for youth, and a range of center-based activities. Services often are provided at the local level by community-based organizations.

- **Family Reunification**

This facilitate reunification of the child safely and appropriately within a timely fashion and **during the 15-month period that begins on the date that the child returns home**. Services are for the child and the parents or primary caregiver. Such services may include individual, group, and family counseling; inpatient, residential, or outpatient substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary childcare and therapeutic services for families, including crisis nurseries; peer-to-peer mentoring and support groups for parents and primary caregivers; services and activities designed to facilitate access to and visitation of children by parents and siblings; and transportation to and from any of these services and activities.

- **Adoption Promotion and Support**

These services encourage adoption from the foster care system when adoption is in the best interest of the child and, includes such activities as pre and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

4.3.6 Children's Services Act (CSA)

The CSA establishes a collaborative system of services and funding that is child-centered, family-focused, and community-based to assess and meet the strengths and needs of troubled and at-risk youth and their families in Virginia.

The purpose of CSA is to:

- *Ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment while protecting the welfare of children and maintaining the safety of the public;*
- *Identify and intervene early with young children and their families who are at risk of developing emotional or behavioral problems, or both, due to environmental, physical, or psychological stress;*
- *Design and provide services that are responsive to the unique and diverse strengths and needs of troubled youths and families;*
- *Increase interagency collaboration and family involvement in service delivery and management;*
- *Encourage public and private partnership in the delivery of services to troubled and at-risk youths and their families; and*
- *Provide communities flexibility in using funds and authorize communities to make decisions and be accountable for providing services in concert with these purposes.*

Statutory Authority: [§ 2.2-5200](#) of the Code of Virginia.

4.3.7 Funding Special Services

A special service payment is a payment that is used to meet a service need of a child that cannot be met by the adoptive parents and is not covered under any other community services, program, or benefit for which the child would qualify. If the child receives any similar service from any other provider or funding source, a special service payment for a like service will not be approved, even if the child is found eligible to receive the service. Special service payments provide financial assistance for services and treatments directly related to special needs which existed prior to the time of the child's adoption ([22 VAC 40-201-161- E 2](#)).

Funding for special services is available for families who have been found eligible to receive special services and must be approved through a Virginia Adoption Assistance Agreement. For additional information on approval requirements for the use of funding for special services, see [Section 2: Adoption Assistance](#).

Special service payments must not be used for the following types of services and expenses:

- *Legal fees and nonrecurring adoption expenses;*
- *Boarding schools or private school placements or expenditures;*

- *Orthodontia treatment, unless related to the special needs identified on the original adoption assistance agreement or Addendum;*
- *Placements in therapeutic foster care (TFC) homes; and*
- *Placement in group homes.*

For more information on distinguishing group homes from psychiatric residential treatment facilities, refer to the [DMAS](#) website. For approved behavioral health providers and program levels, refer to [Magellan of Virginia](#).

Effective January 1, 2022:

- *All new requests for funding for the same type of special service, to include continuations of a current request, regardless of the signature/effective date of the original Adoption Assistance Agreement or Addendum, will not be approved for more than two years over the life of the adoption assistance case.*
- *Funding for all special services, regardless of when the original agreement was signed and effective, may be provided for up to a maximum of \$5,000 per calendar year for the total of all approved services; not to include expenses related to psychiatric residential treatment services, child care expenses, and tutoring. Existing Adoption Assistance Agreements that have services approved for the life of the case or extended periods are also excluded from the \$5,000 maximum.*

4.4 Types of Special Services

Special services listed in this section are available to children and families who have Adoption Assistance Agreements that have been negotiated and have been approved to receive the identified service.

4.4.1 Educational Advocate

An educational advocate is a paid professional who is called in when the child is:

- not receiving the free appropriate public education to which they are entitled;
- not making educational progress, or
- the Individualized Educational Plan (IEP) for the child is not being followed.

The adoptive parent must demonstrate they have attempted to resolve the educational issue without an educational advocate and use the established Individualized Education Program process at the school and other available resources. The Virginia Department of Education (VDOE) website guides special education services at http://www.doe.virginia.gov/special_ed/index.shtml.

4.4.2 Tutoring Services

Limited payment for tutoring may be provided for any child, ages six and older, to improve poor grades (D or below), only when related to the particular need identified on the original adoption assistance agreement or amended adoption assistance agreement. This may be in addition to any reasonable accommodations, which may or may not be identified in a child's IEP or 504 plan, if related or specific to the condition written on the child's Adoption Assistance Agreement.

Tutoring must:

- Be specific to a subject area;
- Include an estimate of the length of time the tutoring will be needed;
- Occur outside of regular school hours for the child's enrolled school; and
- The child should display marked improvements, indicated by a higher overall grade and test scores.

Tutoring Approvals:

- Must be negotiated and approved by the Assistance Negotiator before beginning the service.
- Tutoring approvals are not to exceed 60 hours annually at \$50 an hour.
- Tutoring must be negotiated and approved by the Assistance Negotiator before beginning the service.
- The family will submit the child's report card, to the LDSS, within 30 days of receipt of the report card.

Note: Tutoring must not be reimbursed when provided by a current household member or immediate family member of the adoptive household or provided in advance of a signed and effective adoption assistance agreement or Addendum.

4.4.3 Respite Services

Respite care is a support service that offers short-term relief to adoptive families by providing substitute care for the adoptive parent's child with special needs. The goal

of respite care for families is to reduce adoptive home disruptions and assist in maintaining the permanent placement for the child.

The following requirements must be met:

The LDSS must assure that the respite care provider meets the required standard for an approved LDSS home as outlined in the [Local Department Resource, Foster, and Adoptive Home Approval Guidance](#) manual for approval of respite providers. If adoptive parents chose to use a provider who does not meet this standard, adoption assistance must not be approved.

Respite care can be approved for a maximum of 240 hours per calendar year, with no more than 15 days in any given 90 day period. The terms of respite care must be negotiated and entered into the Adoption Assistance Agreement or Addendum.

The terms of the respite care are specified on the Adoption Assistance Agreement or Addendum before the respite care service being utilized.

Respite care must not be approved for funding a temporary placement once the adoption has already disrupted or has been dissolved; or for funding a short-term placement of a child in a group home or therapeutic foster home for treatment.

4.4.4 Child Care

The lack of child care as a service has been recognized as a possible barrier to adoption for working parents and parents who are enrolled in an educational or training program. To address this barrier, child care assistance may be provided to working parents and parents enrolled in an academic or training program as a part of the maintenance funded payment.

There are two child care funding categories, maintenance, and special services. Maintenance funded *child care assistance is based on both the child and the adoptive parent's needs, while special service funded child care is based solely on the child's needs.*

Child care assistance may be authorized for up to 12 months and can be reassessed as needed until the child's 13th birthday for maintenance funded child care and until the child's 18th birthday for special services funded child care.

When the adoptive parents request child care services, and the LDSS establishes that child care is needed, the LDSS and the Assistance Negotiator must assess and negotiate the child care supplement with the adoptive parents based on the child care funding category.

4.4.4.1 Maintenance Funded Child Care

Only Adoption Assistance Agreements executed after July 1, 2017, will be eligible for maintenance funded child care. Addendums to Adoption Assistance Agreements executed prior to July 1, 2017 cannot be negotiated for maintenance funded child care.

To be eligible for maintenance funded child care, all of the following must be met:

- The child is 0-12 years of age. Child care terminates on the child's 13th birthday unless the child has a documented special need from a qualified medical professional warranting the continuation of child care, which will result in changing the category to special services funded child care.
 - If the child has a documented special need warranting continuation of child care and the funding category is changed to special services funded child care, the child must also be enrolled in a licensed therapeutic child day program that provides specialized care. See [4.4.4.2 Special Services Funded Child Care](#) for more information.
- Both adoptive parents must be working or enrolled in and attending an education or training program when the adopted child is not in school. If the adoptive parent is single, then the adoptive parent must be working or enrolled in and attending an education or training program when the adopted child is not in school.
 - School attendance includes occupational training such as cosmetology and technical schools.
 - If the parents are self-employed, their most recent tax returns or proof of earnings statements (within the last 90 calendar days) are required to be submitted as supporting documentation.
 - It is the responsibility of the LDSS to verify the parents' employment or school attendance. This verification must be sent with the referral request to the Assistance Negotiator and must be maintained in the Adoption Assistance case file.
 - The child care program may be a licensed or an unlicensed regulated program. For more information on approved program types, see <http://www.dss.virginia.gov/family/cc/index.cgi>, in the VDSS Child Care Manual. Verification of the license, registration, religious exemption, or certification must be sent with the referral request to the Assistance Negotiator.

- *The monthly supplemental payment rate cannot exceed \$600 (six or more hours of child care each day) for children ages 0 – 6 years old or until enrolled in any kindergarten program, whichever occurs first. Child care assistance does not fund private kindergarten programs.*
- *The monthly supplemental payment rate cannot exceed \$300 for children 7 – 12 years of age.*
- *The monthly supplemental payment rate is based on the child's age and the family's documented needs. It does not increase based on the child's school instructional modality, i.e., virtual or in-person learning.*
- Child care payments are negotiated and agreed upon on the Adoption Assistance Agreement for up to one year. The child care payments must be negotiated annually to evaluate the need for child care and the child's continued eligibility.
- The amount of maintenance funded child care will be included in the monthly amount for the support and care of the child.
- If the child receives title IV-E adoption assistance, the child care maintenance is funded by title IV-E; if the child has a State assistance agreement, the child care maintenance is funded by State adoption assistance. The title IV-E or state funded maintenance payments must not exceed the foster care payment that would otherwise be made for the child.
- To document maintenance funded child care payments in the child welfare information system, use the Assistance Screen and list child care as a maintenance type of payment.

Child care payments end annually, and a new entry is made each time the service is renewed.

This payment is separate from the basic maintenance payment. The LDSS will use guidelines set forth in [Section 2.16, Terminating Adoption Assistance](#), to ensure families receive adequate notice of termination. If the service is still needed, the LDSS must submit a request to the Assistance Negotiator and a new addendum must be created and effective, prior to continuing the service. To avoid a lapse in service, the LDSS should initiate discussion at least 90 days prior to the end of the service.

In the circumstance of the adoptive parent who becomes unemployed, for any reason, or the adoptive parent who completes or ends their educational or training program, child care services will continue for a maximum of six months

from the last day of employment or enrollment in an approved educational or training program. This will allow continuity of care for the child while allowing the adoptive parent to gain new employment.

4.4.4.2 Special Services Funded Child Care

Eligibility for special services child care occurs when the child care directly addresses severe cases of documented emotional disturbances, blindness, motor impairment, and health conditions such as insulin dependent diabetes. Because of the special need, the child requires special health surveillance, interventions, technologies, or facilities provided by a licensed therapeutic child day program.

All children can benefit from structure and socialization; however, this alone is not a qualifier for specialized child care.

If the child's needs can be met in a regular child care setting, maintenance funded child care must be approved; refer to subsection [4.4.4.1 Maintenance Funded Child Care](#) for eligibility criteria.

Special Services child care can continue until the youth's 18th birthday.

- The child care facility selected by the adoptive parents must be licensed as a therapeutic child day program and specialize in serving children with severe documented medical and behavioral health needs related to the child's special need.
- For licensed therapeutic child day programs, the following must occur:
 - The child day program's director and primary staff responsible for plan implementation must develop an individual service, education, or treatment plan for each child, and the plan must be implemented within 60 days after the first day of the child's attendance ([8VAC20-780-120](#)); and
 - The child's service, education, or treatment plan must be developed, reviewed, and revised every three months and rewritten annually by the director and primary staff responsible for plan implementation in partnership with the parent. A copy of the initial and subsequent plans is given to the child's parent ([8VAC20-780-120](#)).
 - A copy of the child's service, education, or treatment plan must be maintained in the child's adoption assistance record.

- To document special services funded child care payments in the child welfare information system, use the Assistance Screen and list child care as a special services type of payment.
- **Exception:** *In the event the child is found eligible to receive specialized child care, the child must be approved to receive a maintenance funded child care payment, and maintenance funded child care rates apply if the following requirements are met:*
 - *The child is between the ages of 0 -12 years old, and*
 - *There is no provider available who is licensed as a therapeutic child day provider; or*
 - *The provider cannot meet the needs of the child due to age restrictions.*

To execute this agreement, the Negotiation Report and the Adoption Assistance Agreement must be documented to state that the child meets the requirements for specialized child care; however, there is no provider available.

Child care needs will continue to be assessed annually to determine if the child still needs a specialized therapeutic setting. This annual assessment is not for the adoptive parents' employment or school enrollment status.

If it is determined the child no longer meets the requirements for specialized child care, then all maintenance funded child care eligibility requirements, including the adoptive parents' employment and school enrollment, must be met to continue receiving child care payments.

4.4.5 Level C Psychiatric Residential Treatment Facilities (PRTFs)

In some cases, the psychiatric residential treatment allows an adoption to continue while keeping all parties safe. PRTF placements can only be made as a part of a plan for the return of the child to the adoptive family, and the family must actively participate in that plan. Active participation is defined as being physically present for all family therapy and other required therapy sessions, education meetings, visitation, transitional services, e.g., A child can only be placed at a *Level C (psychiatric residential treatment facility)* PRTF whose program is fully licensed and approved by the State to include its treatment and educational programs; provisional licensing for either service is not considered fully approved or licensed. The following documentation is needed to place a child in a PRTF using adoption assistance funding for payment:

- A Family Partnership Meeting to discuss and assess treatment needs, family engagement, and funding approval requirements;
- An [Addendum Request to the Assistance Agreement](#) form;
- A recommendation from the Family Assessment and Planning Team (FAPT) meeting or similar multidisciplinary team meeting held in the community of which the family resides, indicating that psychiatric residential treatment services are the least restrictive and most effective community based resource available to meet the child's needs. Recommendations must also include services and support to transition the child back home.
- After FAPT makes its recommendations, the FAPT no longer needs to provide additional assessments, conduct utilization reviews, or make service recommendations, unless required by CSA law and policies, or the LDSS and FAPT agree such actions will be beneficial for the child;
- A Certificate of Need by an independent physician certifying that outpatient care cannot meet the child's unique needs, appropriate treatment of the child's special needs requires services on an inpatient basis and at the Level C – Psychiatric Residential Treatment Facility level of care, under the direction of a physician and services can reasonably be expected to improve the child's special needs to prevent further regression. For the child who is not funded partly by CSA, the community services board in the locality where the adoptive parents reside provides the independent team certification;
- Recent child and family assessments that are consistent with the child's need for psychiatric residential treatment services. The assessments must include, but are not limited to, the Virginia Child and Adolescent Needs and Strengths Assessment (CANS) administered within the last 90 days, and it must indicate that psychiatric residential placement is the most appropriate and least restrictive level of care available to meet the child's needs;
- Recommendation for placement from the current Medicaid approval process in place, i.e. IACCT;
- Negotiation Report from the Assistance Negotiator approving the service request;
- A signed and effective Addendum to the Adoption Assistance Agreement.

If any of the required recommendations are not provided, or the recommendation does not support placement in the PRTF, special service payments must not be

used for funding the placement. The adoptive parents may choose to place the child using their own financial resources or an alternative funding resource.

In any case, adoption assistance will only cover costs associated with:

- the first 30 days of psychiatric residential treatment and
- educational expenses related to the placement.

As a result, the family should seek services from a Medicaid or private insurance approved provider.

4.4.5.1 Determining Whether Residential Services are Covered

When exploring all available resources, the LDSS and adoptive parents must decide if the following resources are available to fund educational expenses related to the necessary psychiatric residential treatment service before considering funding for special services ([22VAC40-201-161 E 2 b \(2\)](#)):

- When the child's Individualized Education Plan (IEP) requires placement in a psychiatric residential treatment program for educational purposes, for children who reside in Virginia, the CSA (Children's Services Act) in the locality where the adoptive parents reside is responsible for all placement costs.
- When the child's IEP does not require placement in a psychiatric residential treatment program, and the child is placed in psychiatric residential treatment for non-educational purposes, the local school division in the locality where the adoptive parents reside is legally responsible for assuring the child's access to free and appropriate public education (FAPE). In such circumstances, the school division is responsible for determining and providing the services necessary for FAPE while the child is in the psychiatric residential placement. The adoptive parents may request that special services funds be used to cover any remaining educational costs.
- When the child is Medicaid eligible, Medicaid may cover residential treatment for the child who meets the Medicaid eligibility standard for medical necessity and is in a Medicaid-enrolled facility. With assistance from the LDSS, the adoptive parents must follow all requirements for Medicaid funding for placement in a children's psychiatric residential facility.
- When the child is not Medicaid eligible during the initial admission into a psychiatric residential treatment facility, the family should check with their own health insurance during the first 30 day period. If their health

insurance does not cover the costs, the adoptive parents may request that special services funds be used for the psychiatric residential treatment costs for the child's first 30 days of placement.

- If the child is placed in a psychiatric residential treatment facility for 30 days or longer, the adoptive parents should apply for Medicaid on behalf of the child to help cover the costs. For purposes of Medicaid eligibility, the child is considered not living with the adoptive parents at 30 days or more. The adoptive parents should submit the Medicaid application to the LDSS with which they entered into the adoption assistance agreement.

After assessing all other resources available to help pay for residential treatment and when there are remaining costs, the LDSS and adoptive parents must determine whether the adoptive parents can financially afford the remaining costs for the requested special service. If Medicaid and/or adoption assistance are the sole sources of funding used for payment, any documentation sent to the provider must specify that the placement is a non-CSA placement.

4.4.5.2 Convening a Family Partnership Meeting

When special service payments are used to pay for the educational expenses related to a child's psychiatric residential treatment, the LDSS must convene an FPM to engage the family, other significant adults, service providers, and community members (see Chapter E. Foster Care Manual, [Section 2.9](#)). The purpose of the meeting is to identify wraparound, family, and community services and supports that could prevent the psychiatric residential placement and if placement cannot be prevented, facilitate returning the child home at the earliest and most appropriate time, consistent with the child's needs. The LDSS should schedule this meeting when it is most beneficial for the child during the process. Consider the following:

- At the first indication the child is at risk of psychiatric residential placement;
- Prior to, or concurrently with, FAPT or the approved multidisciplinary team meeting;
- When assessing the child's needs initially for psychiatric residential treatment services;
- When reassessing the child's needs for continued psychiatric residential treatment;
- When planning the child's transition and return home.

4.4.5.3 *Negotiating Psychiatric Residential Treatment Services*

When the LDSS determines the child meets the requirements for psychiatric residential treatment services, the LDSS and Assistance Negotiator must negotiate special service payments with the adoptive parents and determine agreed upon terms.

In addition, the LDSS and adoptive parents must also discuss the following factors:

- The specific services and supports that meet the child's special needs to be provided, including:
 - *Ongoing Maintenance Payments. If the adoptive parents are receiving basic and enhanced maintenance payments, the enhanced maintenance portion of the payment will be negotiated to zero dollars while the child is out of the home. The enhanced maintenance payment supplements the adoptive parent's finances due to their need to provide ongoing additional support and supervision. Once the child returns to the home, the LDSS must reinstate the enhanced maintenance payment at the agreed upon rate that was effective prior to the child's residential placement. The adoptive parent must sign an addendum to the Adoption Assistance Agreement prior to placement in the psychiatric residential facility, effective the first day of placement, and a new Addendum to the Adoption Assistance Agreement once the child returns home, effective the day the child returns home.*
 - Wraparound, family, and community services and supports necessary to successfully transition the child home.
 - Appropriate educational services for the child. The adoptive parents must discuss with the child's school the child's educational needs and the most appropriate way to meet those needs.
 - Intensive care coordination services are arranged or provided by the CSB, when appropriate (visit the Department of Behavioral Health and Development Services' [website](#) for more information).
- The requirement of the adoptive parents to actively participate in the child's treatment and their plan to bring their child home.

4.4.5.4 Responsibilities of the Adoptive Parents

When special service payments are used for psychiatric residential treatment, adoptive parents are responsible for actively planning, supporting, and participating in service delivery for their child. The adoptive parents must:

- Provide the child emotional support during the transition, treatment, and service period;
- Participate in treatment planning, including:
 - Researching the most appropriate psychiatric residential facility for their child;
 - Obtaining pre-admission screening materials and providing all required information to meet Medicaid requirements when applicable;
 - Providing the psychiatric residential treatment facility relevant background and service history information about their child.
 - Arranging and participating in pre-placement visits with their child.
 - Negotiating rates and entering into a placement agreement with the service provider. The adoptive parents must provide the LDSS a copy of the agreement for the child's adoption assistance case record.
 - Arranging trial home visits to prepare for the child returning home.
 - Transitioning and returning the child home at the earliest and most appropriate time that addresses the child's needs.
- Participate actively in treatment and services at the psychiatric residential treatment facility, at home, and in the community.
 - Visit the child frequently and regularly based on the child's best interests and treatment plan. The adoptive parents must visit the child at least once each month and should visit more frequently.
 - Communicate frequently and continuously through phone calls, email, social media, and letters.
 - Help maintain important relationships for the child through arranging visits and frequent communication with family, friends, school, religious, spiritual, and other cultural and community connections.

Provide funds for the child's use during the placement (e.g., allowance, clothing, personal incidentals, and recreational activities). The agreed upon terms for specific responsibilities of the adoptive parents must be documented in the Addendum to the Adoption Assistance Agreement.

4.5 Providing Post-Adoption Services

Post-adoption services can be preventative and provided at the time of adoption finalization through ongoing supportive services and adoption assistance and they can be provided in times of crisis, as in adoption preservation services. The availability of post-adoption services must be discussed with the family prior to the finalization of the adoption. The [Full Disclosure Checklist for Adoption Families](#) must be provided to and reviewed with the adoptive family by the LDSS responsible for preparing the child and family for adoption. The checklist must be kept in the Adoption Assistance case record as evidence that the adoptive parent was provided information about the child and family's background, adoption assistance, and post-adoption services prior to adoption finalization. A copy must be given to the adoptive family.

All youth adopted from Virginia's foster care system, age 16 or older, with a special need identified on an [Adoption Assistance Agreement](#) must be provided the [Proof of Foster Care – Special Needs Adoption](#) form. This form is necessary for verifying the foster care status of the child at the time of the adoption and serves that purpose for various programs that are geared towards older youth adopted from state child welfare programs.

In addition to providing information about post-adoption services, the LDSS must also provide contact information for the agency representative that will be able to assist families with future needs that may arise. The representative must be familiar with services available to the family through the VDSS post-adoption consortium, LDSS and LCPA support, the community, and other service providers.

4.5.1 LDSS Responsibilities

The LDSS has specific responsibilities for each of the following:

- Evaluating and interpreting referral packet information and completing a strengths-based assessment with the child and family using the Child and Adolescent Needs and Strengths Assessment (CANS), as needed. Staff must be trained in administering and scoring the CANS.*
- Assist the family in convening a team to include immediate and extended family members, service providers, and informal supports to form a collaborative care plan with clearly defined goals.*

- *Address the need for and develop, revise and monitor a crisis plan with family and team members.*
- *Ensure that parent and family involvement is maintained throughout the service period.*
- *Maintain an ongoing dialogue with the family and providers to assure that the philosophy of care is consistent and that there is progress toward service goals.*
- *Evaluate the progress and make adjustments as necessary.*
- *Maintain an up to date file record consisting of treatment summaries, payment and resource utilization records, case notes, legal documents and releases of information.*
- *Facilitate the closing of the service request and oversee the transition to any ongoing care.*
- *Use resources and available funding to ensure that services are based specifically on the needs of the child and family.*
- *Be able to locate and deliver strengths based family-centered, adoption, and culturally competent services.*
- *Be able to interpret psychiatric, psychological, and other evaluation data and use that information to form a collaborative plan of care.*

4.5.2 Who is Eligible?

Children and families adopted through public and private agencies, both domestic and international, are all eligible for some form of post-adoption support. The type of support is based on the service requested.

The LDSS assumes an obligation to maintain the adoptive placement by delivering post-adoption services to children and families adopted through public and private agencies, both domestic and international, after the adoption finalizes.

Post-adoption services provide a wide range of supports and services designed to respond to the family's needs after the finalization of the adoption.

A family will be eligible if:

- *There is at least one adopted child under the age of 18 or a child with an active Adoption Assistance Agreement;*
- *The child is residing in the home at the time of the referral;*

- *An adopted child is receiving treatment outside of the home; and the plan is to transition the child back into the home;*
- *The child's permanency was disrupted either because of the death or disability of the adoptive parent and*
 - *The child is residing in the home of an adult who expresses interest in becoming the adoptive parent at the time of the referral; or*
 - *The plan is to transition the child into the home of that adult; or*
- *The child was adopted internationally and the family is seeking support to maintain the adoptive placement.*

To receive post-adoption support, an adopted child and the family must either have a child who was adopted, and they must either accept the service or express a willingness to begin receiving services. The following are types of needs that would be appropriate for Adoption Preservation Services:

- *A child or children experiencing significant emotional or behavioral issues;*
- *A child experiencing loss/grief/separation issues; or*
- *A medical/organic/neurological disability, e.g., Fetal Alcohol Syndrome effects, mood disorders, attachment disorders, and other psychiatric diagnoses; and adjustment issues and stagnation in developmental stages related to adoption.*

The LDSS must ensure that referrals are made to appropriate resources to meet the needs of families exploring all community resources and state and local programs where such referrals are applicable and when services are available.

4.5.3 Assessing the Child and Family

Services to the adoptive family must begin with a comprehensive assessment to identify the strengths and needs of the child and family. The LDSS must then, depending on the level of needs based on the assessment, work with the family to convene a team of people that may include supportive family members and/or friends, service providers within the community, and informal supports to form a collaborative plan of care with clearly defined goals. This can be accomplished through a Family Partnership Meeting, a Service Coordination Meeting, or a Treatment Team Meeting. Efforts must be made to deliver strengths based, family centered services that are culturally competent while maintaining ongoing dialogue and family participation to assure consistency and progress towards service goals, making adjustments as necessary.

The LDSS must determine the service needs by completing the following actions:

- *Provide the adoptive parent with a service application;*
- *Within five calendar days, confirm there are no current reported safety threats to the child by reviewing the child welfare information system for all family members living in the household;*
- *Within 10 calendar days of receiving the case, make face-to-face contact with the adoptive parent and child to assess the identified needs of the child and family;*
- *To determine service needs, the LDSS must, at minimum, observe:*
 - *The adoptive parent and child in the home environment, and*
 - *The child's interactions between family members in the home;*
- *Obtain from the adoptive parent and child (as appropriate) the names of persons who can provide additional information on the child's needs;*
- *Obtain a completed [Authorization to Release Information](#) form to enable the LDSS to obtain additional information from physicians, mental health providers, school employees, or other service treatment providers;*
- *After obtaining authorization to release information, contact service and treatment providers, to understand the past and current services and treatment needs of the family and the child;*
- *Obtain expert evaluations, when appropriate, to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning;*
- *Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities listed above; and*
- *Document the findings of the activities in the child welfare information management system.*

4.6 Educational Services in the Public School System

The LDSS must explore all educational and related services provided by the public school system before using adoption assistance funds for services. According to the Virginia Department of Education, based on its statutes and regulations:

- Remedial education is designed to remedy, strengthen, and improve the academic achievement of students who demonstrate substandard performance. Some

remedial services may be available from the child's public school in the local school division.

- Special education is through the local school divisions. It is mandated by law to provide, without cost to the parent, specifically designed instruction and related services to meet the unique needs of children with disabilities, ages 2 through 21 (§ [22.1-214](#)).
- Special education may include instruction conducted in the classroom, home, hospital, institution, and other settings and instruction in physical education (§ [22.1-213](#), [34 CFR 300.39](#), and [8 VAC 20-81-10](#)). The term includes each of the following if it meets the requirements of the definition of special education:
 - Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards.
 - Vocational education.
 - Travel training.

Specifically designed instruction means adapting as appropriate to the needs of the eligible child the content, methodology, or delivery of instruction to address the unique needs of the child and to ensure access of the child to the general curriculum in order to meet the educational standards that apply to all children.

The school division's responsibility is limited to FAPE or to ensuring the provision of accommodations or activities on the IEP, which are designed to adapt the general curriculum to the child's needs. For specific details related to FAPE and VDOE regulations, refer to state regulations, laws, and policies on the [VDOE website](#).

Local school divisions are responsible for paying for services and placement identified on the IEP when the child is placed within the school system or regional special education program.

If the adoptive parents have any concerns or disagreements about the child's special education program or implementation of the special education procedures, they should first contact the director of special education in the local school division for resolution. If the resolution is not achieved at the local level, the adoptive parent may contact the VDOE's Dispute Resolution and Administrative Services unit. See the [VDOE website](#) for additional information. For more information about mediation, complaints, and due process hearings, refer to the [Division of Special Education and Related Services](#).

Section 504 means the section of the Rehabilitation Act of 1973, as amended, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance ([29 USC § 701 et seq.](#); [8 VAC 20-81-10](#)).

For additional information, see the VDOE's [Section 504: Keys to Implementation in Virginia's Schools](#). Adoptive parents should discuss with the child's school whether or how Section 504 may apply.

The [Parent Educational Advocacy Training Center \(PEATC\)](#) assists families of children with disabilities by providing education, information, and training. PEATC builds respectful, collaborative partnerships between schools, professionals, and the community to promote success in school and community life for children with disabilities.

The [Virginia Department of Education Transition Services](#) website provides support, information, and resources designed to improve the outcomes of students with disabilities in transition from middle/secondary education to postsecondary education and employment.

Private education: While payment for private school placements is not provided through adoption assistance; the adoptive parents may seek out private school options using alternative funds.

4.7 Postsecondary Education and Training

The adoptive parents may consider the costs of postsecondary education and training when assessing the child's needs for adoption assistance. The LDSS should inform the adoptive parents about the following resources that can help defray costs.

4.7.1 Education Training Voucher Program (ETV)

The ETV program provides federal and state funding to help eligible youth with expenses associated with college and postsecondary vocational training programs. Each eligible youth can receive funding of up to \$5,000 per year or the total cost of attendance per year, whichever is less. The ETV program can provide services to youth up to the age of 25.

ETV funds can be used to pay for things like tuition and fees, room and board, computers, software, computer accessories, books, and transportation.

Youth adopted from Virginia's foster care system after the age of 16 are eligible for the ETV program if they meet the eligibility requirements. For more information on the ETV program and the eligibility requirements, see Section E. Foster Care [Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17](#) or [Fostermyfuture.com](#).

4.7.2 Foster my Future / Chafee Services

Chafee provided services are primarily education and training oriented and are intended to keep youth in school. At the same time, youth obtain life skills and participate in other life preparation activities and plans to promote a successful transition to adulthood. Chafee provides support for those youth whose adoptions were finalized at age 16 or older, and participation is voluntary.

The LDSS must provide, either directly or through contract, those services identified in the life skills assessment that is indicated to help the youth achieve independence. The case plan or Transitional Living Plan must identify and address the specific skill needs of the youth. Each youth receiving transitional services must be assessed annually using an appropriate life skills assessment tool; however, an individualized assessment must be conducted every six months to determine the youth's progress in acquiring basic life skills and the skills necessary for a successful transition to adulthood.

If a youth was in foster care on or after their 16th birthday and was adopted before their 18th birthday, they will be eligible for all Chafee funding except housing, until their 21st birthday.

For more information on Chafee services and supports the program provides, see Section E. Foster Care Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17.

4.7.3 Independent Living Services (IL)

Youth adopted from the foster care system at age 16 years and older are eligible for IL services; to include any IL program, clinic, or classes offered by VDSS, the LDSS, or Project Life. Adoptive parents are responsible for payment of any fees required for participation in various activities.

Adopted youth are not eligible to receive the Independent Living Stipend. For more information on the IL program, see [Section E. Foster Care Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17.](#)

4.7.4 Defraying the Cost of College

Great Expectations Youth who were adopted with special needs and have earned a high school diploma or GED qualify for the Great Expectations program. The grant can be used for earning a degree or for non-credit workforce programs.

The Great Expectations program will pair college bound youth with an adult coach at one of 21 community colleges throughout the state. The youth and

coach work together to assess the youth's skills and interests, talk about the youth's future, and make a plan for enrolling in college.

As long as the youth is enrolled for at least six credits, they do not have to repay the grant. If the youth drops below six credits, they will lose eligibility and must repay the grant. For more information on the Great Expectations program, visit www.greatexpectations.vccs.edu and Section E. Foster Care [Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17. Find a participating college.](#)

- [Foster Care to Success](#) provides college funding and support for college-bound youth in foster care or adopted after their 16th birthday. It administers scholarships and grants for former youth in foster care to achieve a meaningful postsecondary education. They provide tuition grants, book money, living stipends, and emergency funding for unexpected expenses. They also provide academic coaches, personal mentors, care packages, and internship opportunities.
- [Federal Student Aid](#) provides free information on the website from the U.S. Department of Education on preparing for and funding education beyond high school.
- [Smart Student Guide to Financial Aid](#) is a website with comprehensive annotated collections of information about student financial aid, including a financial aid calculator for determining costs.

4.8 Renegotiating Adoption Assistance

Adoption assistance payments made on behalf of a child must not exceed the foster care payment they would have received at the time the initial adoption assistance agreement was signed ([22VAC40-201-161](#)).

Renegotiations are contingent on meeting eligibility criteria for increasing monthly maintenance and/or requesting funding for special services.

The adoptive parent may request to renegotiate monthly maintenance on the Adoption Assistance Agreement when:

- *During the initial negotiation process, the adoptive parent accepted less than the maximum amount the child was entitled to receive.*

Example:

Basic Maintenance \$700.00

Enhanced Maintenance \$2,016.00

The total amount available to the adoptive family at the time the Adoption Assistance Agreement was signed was \$2,716; however, the adoptive family believed \$2,000 would be sufficient to support the child. The adoptive family can submit an [Addendum Request to the Assistance Agreement](#), receiving up to an additional \$716.00 in maintenance payments.

- *The child had a hereditary tendency, congenital problem, or birth injury when the original adoption Assistance Agreement was signed; however, there was no condition present to warrant a monthly payment. As a result, the child was approved for a zero dollar agreement. The child now has a condition that is now in-line with the special need identified on the original Adoption Assistance Agreement, and the parents are requesting adoption assistance.*
- *The adoptive parents are requesting funding for a service that is not covered by any other resource.*

4.8.1 Submitting a Request for Change

The adoptive parents must submit an [Addendum Request to the Assistance Agreement](#) to the LDSS with which they established the agreement. Both parents sign the request when the agreement was with two parents, including adoptive parents who are separated or divorced. One parent signs the request when the agreement was with one parent or when a signed court order documents the sole legal responsibility of one parent for the child.

4.8.2 Timeframe for Acting on Request

Within 14 calendar days after receiving the request for an addendum, the LDSS must:

- Review the request to determine whether it is complete with all required documentation and signatures.
- Notify the parents in writing, using the [Family Services Notice of Action and Right to Appeal](#), that the request was received and its status:
 - **The request is complete.** The notification must include the date the request was received. It must state that the LDSS and parents have 60 calendar days to assess, negotiate, and execute an addendum.
 - **Additional information is needed.** The notification must state the specific information necessary to complete the request. It should request the parents submit the information by email, phone, or in person within 30 calendar days from the notice date.

If the parents do not provide the information within 30 days, the LDSS must deny the request. The LDSS must inform the parents in writing the reasons for denying the request and that they may submit a new [Addendum Request to the Assistance Agreement](#).

- **Request is denied.** The notification must clearly state the reasons for the denial, provide information on the adoptive parents' right to appeal within 30 calendar days of receiving the notice of denial, and provide information on the fair hearing process. No further action is required by the LDSS on the request.

4.8.3 Assessing Overall Request for Addendum

The LDSS and adoptive parents should discuss the information provided in the Addendum Request to the Assistance Agreement. The purpose of this conversation is to fully understand the parents' reasons for requesting adoption assistance at this time. The conversation should include, but is not limited to:

- The changes in the child's special needs or the family circumstances of the parents, including:
 - The reasons the adoptive parents are concerned at this time.
- The impetus, duration, severity, and impact of the child's special needs and behaviors. The specific services, resources, and supports the parents have used, or attempted to use, in their family and community to address the changes.
- The services, resources, and supports the parents are requesting to help meet the child's special needs. The LDSS should summarize the concerns, needs, interests, and reasons of the parents to ensure accurate understanding. *The LDSS must have completed the Post Adoption Decision Tree with the adoptive parent to ensure this is the most appropriate course of action.*

4.8.4 Assessing Relevant Components of Adoption Assistance

The Assistance Negotiator must assess and negotiate relevant components of adoption assistance with the LDSS and adoptive parents to determine agreed upon terms for the Addendum. There is no need to assess components that are not impacted by the request, when the current terms will continue as delineated in the existing adoption assistance agreement.

The LDSS should use the application to assist in the assessment of the financial circumstances of the family and consider this information when negotiating changes to the agreement. This application does not determine the child's eligibility for adoption assistance and will not be used as the sole factor in assessing the family

circumstances. The assistance negotiator, LDSS, and the parents should use the same assessment and negotiation process that is used for initial agreements to guide the addendum process, including:

- Negotiating adoption assistance.
- Assessing:
 - Family circumstance.
 - Basic maintenance needs of the child.
 - Additional supervision and support needs of child.
 - Services to meet the child's special needs.
- Other resources

When the adoptive parents request:

- A reassessment for additional supervision and support is provided by the adoptive parents, the LDSS must determine:
 - if the adoptive parent is already receiving the maximum amount, they can receive it based on the amount of the VEMAT and the amount that was originally negotiated when the initial agreement was signed.
 - if there are indications that the child's requirements for additional supervision and support may have changed based on the frequency, duration, and intensity of the child's behavioral, emotional, and physical/personal care characteristics.

Such change in behavior must be documented, and a request is made using the [Addendum Request to the Assistance Agreement](#).

- To add a new diagnosis or special need factor that was present at the time of the adoption but was not diagnosed, the adoptive parents must submit documentation and relevant reports from qualified professionals as required for documenting the special need or condition/disability after the final order of adoption, when no more than one year has elapsed from the date of diagnosis.
- To document the child has a special medical need that existed at the time the initial adoption assistance agreement was executed prior to the final order of adoption, then the adoptive parents must submit documentation by qualified professionals of the child's current special medical need and its existence at the time the initial agreement was executed (whether or not treatment was being received).

4.8.5 Executing the Addendum

The LDSS must prepare an Addendum to the Virginia Adoption Assistance Agreement on behalf of the child. When the local board, or its designee, approves the Addendum, the parents and the local Board, or designee, must sign and date it. The local board does not have authority to deny an addendum for an eligible child. When both parents signed the request for an addendum and agreed to the terms in the Addendum, then both parents must sign and date the Addendum. Payments and services must not be effective until all parties have signed and dated the Addendum. Changes in payment rates, such as an increase or decrease in enhanced maintenance rate, must not be implemented until the first day of the month following all signatures. The Addendum must state the effective date of the changes. This date must not be earlier than the date when all parties signed the Addendum. The Addendum is executed on behalf of the child on the effective date stated in the Addendum. However, for special services payments, the effective date is the date on which all parties sign the Addendum.

The LDSS must give the adoptive parents a copy of the Addendum. The LDSS must place the original Addendum and all supporting documents in the child's adoption assistance case record.

4.9 Making Changes to the Adoption Assistance Agreement

There are certain circumstances that may occur and call for an amended adoption assistance agreement to be developed. Depending on the change requested, if the original adoption assistance agreement had two adoptive parent signatures, the request will require both parents' signatures. Likewise, if the original adoption assistance agreement had one adoptive parent's signature, the request will only require one adoptive parent's signature.

4.9.1 Address Changes

Address changes are required to be submitted, in writing to the LDSS. The address change must be submitted as far in advance as possible so that adoption assistance payments and notices can be directed to the correct address and if the family is moving out of their current state of residence, Medicaid can be established in the new state.

The written address change must include the following information:

- Adoptive parent(s) names
- Telephone number
- Adoptive parent(s) email address

- Child's name
- Child's date of birth
- Complete old address
- Complete new address
- Effective date address change
- Adoptive Parent(s) Signature – both parents' signatures required

The LDSS must update the adoption case in the child welfare information system to reflect the information. If the adoptive parent is also a licensed foster parent or respite provider, the LDSS should also contact the appropriate licensing specialist to inform them of the information.

4.9.2 Single Adoptive Parent Marries

When a single parent who adopts subsequently marries and their new spouse adopts the child, an Amended Adoption Assistance Agreement can be developed adding the new spouse to the agreement. The adoptive parent must submit the following:

- A Request for an Addendum to the Agreement
- A copy of the adoption decree for the spouse and child.

The LDSS must develop an Addendum to the Adoption Assistance Agreement adding both parent's names signed by the local board or its designee. The agreement is effective the day it is signed.

Any changes to this agreement, once both parents sign, require the signatures of both parents.

4.9.3 Adoptive Parents Divorce

When adoptive parents enter into a legal separation or divorce situation, it often becomes necessary to take one of the parents off the Adoption Assistance Agreement. The LDSS should encourage the parents to address the agreement directly with their attorneys so that the court can perhaps order one parent to receive the adoption assistance. LDSS does not have the authority to remove one parent from the agreement without a written notarized request signed by both adoptive parents or by a court order.

When adoptive parents divorce and one adoptive parent is granted physical custody or it is ordered by the divorce decree to receive the adoption assistance, a new agreement must be developed.

The adoptive parent must submit the following:

- A Request for an Addendum to the Agreement
- A copy of the court order identifying the adoptive parent as the custodial parent.

The LDSS must develop an Addendum to the Adoption Assistance Agreement adding both parent's names signed by the local board or its designee. The agreement is effective the day it is signed.

4.10 Adoption Dissolution

Adoption dissolution occurs after the adoption is finalized and the legal family relationship and responsibilities of the adoptive parents no longer exist. Adoption dissolution is different from adoption disruption in that adoption disruption ends the adoption process prior to the finalization of the adoption. Adoption disruption may result in the child changing placements from the prospective adoptive parents' home to another placement while in foster care. For more information about adoption disruptions see Chapter E. Foster Care Manual, [Section 9.12](#).

When dissolution cannot be prevented or an alternative found, it should be approached with the child's best interests at the forefront. Sensitivity to the feelings of the child who leaves the family and the children who stay in the family must be the first priority.

4.10.1 Role of LDSS Prior to Adoption Dissolution

Knowing that adoption dissolution can be devastating for both the adopted child or youth and the adoptive family as a whole; an agency should work diligently to prevent a dissolution by providing support and post adoption services specific to the needs of the adoptive child or youth and family.

Problems in the adoptive home should be evaluated in light of the family's issues as well as the needs and behaviors of the child. The adoptive family should be encouraged, supported, and assessed in getting services in place that will enable the parents to continue to parent their child. The LDSS should view the family as the best resource for this child unless a safety risk has been identified from a child protective services (CPS) assessment or investigation. In the event of a CPS allegation, the LDSS should collaborate with the CPS worker to work with the family.

Prevention services should be provided to the family prior to adoption dissolution. If the family resides in a different locality than the locality that assisted the family with placement and finalizing the adoption, the LDSS that is responsible for coordinating post-adoption services is the LDSS that assisted with finalizing the adoption. When requested, the LDSS where the family resides should assist the other LDSS in

providing information on appropriate services and support within the community to preserve the family. If Family Assessment and Planning Team (FAPT) involvement is necessary, the locality where the family resides will be responsible for conducting the FAPT meeting and the LDSS that was responsible for finalizing the adoption and providing services should attend the meeting (See [Section 2.17.3](#) for more information about LDSS responsibilities).

To prevent the child from entering foster care, foster care prevention services should be provided when the adoption is at risk of dissolution and a Family Partnership Meeting (FPM) should occur when the potential disruption is recognized. The LDSS where the family resides is responsible for opening a prevention case, if necessary. For more information about providing prevention services and opening a prevention case, (See Chapter B., Prevention Services, [Section 2](#)). If the placing agency is from another state and the child resides in a Virginia locality, the LDSS where the family resides should work in collaboration with the out of state locality to prevent adoption dissolution. If the adoption dissolves, the LDSS where the adoptive parents reside may receive custody of the child.

To prevent dissolution the team should consider what services might salvage the adoption, what support services the adoptive family may need, and if relinquishment of the child directly to the LDSS would be most appropriate.

4.10.2 Role of LDSS During Adoption Dissolution

A dissolution decision should be made with the focus on the best interest of the child. The LDSS should continue engaging the family if the child enters foster care, unless TPR occurs.

A temporary entrustment agreement should only be considered when it is in the child's best interest. At no time should a temporary entrustment agreement be accepted from adoptive parents as their plan to eliminate their legal responsibilities or to obtain treatment for the child. A temporary entrustment agreement does not terminate the adoptive parents' rights or their duty to support their child. It does, however, place the child back in foster care and communicates a message of failure and instability to the child.

In the event of adoption dissolution, the LDSS may need to pursue TPR. If an adoptive child comes back into foster care and the parents' rights are terminated either voluntarily or involuntarily, the procedure to terminate the adoptive parental rights is the same as for any parent (see Chapter E., Foster Care Manual, [Section 9.6](#) for information on TPR).

TPR severs the relationship of parent and child between the individual adopted and the adoptive parents. The former parents are relieved of all legal duties and obligations due from them to the adoptee and the former parents are divested of all rights with respect to the adoptee.

4.10.2.1 Opening a foster care case

If there is adoption dissolution and the child is removed from the home, the child enters foster care in the locality where the family resides. A new foster care case is opened in the child welfare information system (See Chapter E., Foster Care Manual, [Section 2](#) and [Section 3](#) for more information about opening a foster care case).

4.10.2.2 Closing the adoption case

When the parental rights of the adoptive parents are terminated, the adoption case is closed in the child welfare information system. The information in the child welfare automated system remains restricted and the paper adoption file is sealed (See [Section 4.9.4](#) on how to obtain adoption information to provide services to the child).

4.10.3 Adoption Assistance and Adoption Dissolution

If the child is no longer in the adoptive parents' home or was placed in foster care and TPR has not occurred, the LDSS that entered into the adoption assistance agreement with the adoptive family should assess the agreement with the adoptive family. The LDSS should make a referral to the Assistance Negotiator to negotiate the adoption assistance payment, if necessary. No changes to the adoption assistance payment must be made without being negotiated ([§ 63.2-1302 C](#)).

The adoption assistance payment cannot be terminated or reduced without the adoptive parents' consent unless the LDSS determines that there is a circumstance that meets the termination criteria of the adoption assistance agreement (See [Section 2.16](#) for more information for terminating an adoption assistance payment).

If the family was receiving adoption assistance and TPR occurs, the family is no longer legally or financially responsible for the child and adoption assistance must be terminated ([22VAC40-201-161 N](#)).

4.10.4 Obtaining Information After Adoption Dissolution

Once an adoption is finalized in Virginia, the adoption record is sealed and information can only be disclosed under the circumstances designated in the Code of Virginia [§§ 63.2-1246](#) and [63.2-1247](#). See [Section 5.4](#) and [5.5](#) for additional information on when adoption information can be disclosed to the adoptee, birth family, and adoptive parents.

The Commissioner must release non-identifying information from the adoption record when the LDSS requesting the information is providing services to the child or adoptive parents ([§ 63.2-1246](#)). When a child returns to foster care after adoption dissolution, the original LDSS or LCPA may release non-identifying information in the

child's adoption records to the LDSS that has custody of the child. Non-identifying information is information that does not identify the birth family or any trace information that could lead to the identification of the birth family (See [Section 5.4](#) for more information about non-identifying information). When the adopted child enters foster care and the adoption was finalized in Virginia, the LDSS seeking information from the adoption record should contact the Adoption Unit to determine if the information may be released.

DRAFT

5

ADOPTION DISCLOSURE PROCESS

TABLE OF CONTENTS

5		3
5.1	Introduction	3
5.2	Legal Citations	Error! Bookmark not defined.
5.3	Confidentiality	3
5.4	Types of Information Available for Disclosure	4
5.4.1	Non-Identifying Information	5
5.4.2	Who Can Request Non-Identifying Information	5
5.4.3	Special Types of Non-Identifying Information	5
5.4.3.1	<i>Request for Updated Family Medical History Only</i>	6
5.4.3.2	Critical Medical Information Requested from a Licensed Provider	7
5.4.3.3	Letters	8
5.4.4	Identifying Information	8
5.5	Adding information to the closed adoption file	9
5.6	Search and Reunion Services	10
5.7	Conducting a Disclosure Search	11
5.7.1	Letter of Appointment	11
5.7.2	Searching for Information	11
5.7.3	Requesting an Extension	14
5.7.3.1	Overdue Disclosure Cases	14
5.7.4	Expediting a Disclosure Search	15
5.8	Redacting the Adoption File	15
5.8.1	Releasing Non-Identifying Information	17
5.9	Report of Inquiries	17
5.9.1	Waiting for the final disposition	20

5.10	Final disposition	20
5.11	Charging a fee	21
5.11.1	Fee schedule for adoption searches	21
5.11.2	Determination of direct costs	22

DRAFT

5

ADOPTION DISCLOSURE PROCESS

5.1 Introduction

The Virginia Department of Social Services (VDSS) Adoption Unit maintains a permanent record of all adoptions finalized in Virginia since July 1, 1942. It has the primary responsibility for preserving adoption files and administering the release of information from those files. Public and private child-placing agencies (CPAs) are responsible for releasing closed adoption files upon approval from the Commissioner. *Adoption Disclosure refers to the official release of information from a sealed adoption file relating to a legal adoption. There are two types of adoption disclosure: the disclosure of identifying information and the disclosure of non-identifying information. For more information on identifying and non-identifying information, see [Section 5.4 Types of Information Available for Disclosure](#).* Based on Virginia Code §§ [63.2-1246](#) and [63.2-1247](#), members of the adoption triad may access information in the closed adoption file when an application is submitted, and VDSS determines they have met applicable search criteria.

In addition to providing disclosure services, the Department, through a child placing agency (CPA) acting as a confidential intermediary, also provides search and reunion services and can seek to obtain critical family medical information. A confidential intermediary is an authorized CPA, acting on behalf of the Commissioner to facilitate the sharing of adoption information between a biological parent, an adoptee, and/or other eligible family members.

5.2 Confidentiality

All paper, records, and information about an adoption are confidential and may be disclosed only in accordance with §§ [32.1-262](#), [63.2-1818](#) and [63.2-1245](#) through [63.2-1248](#) of the Code of Virginia. These papers, records, and information include the following:

- *The official adoption file;*
- *The permanent record of the court;*

- *A file in the State Department of Health, Division of Vital Records;*
- *A file in the Regional Offices;*
- *A file in any child-placing agency (CPA);*
- *Any electronic case documentation system; or*
- *A file maintained by any health care provider.*

5.3 Types of Information Available for Disclosure

There are two types of information available for release during the disclosure process: identifying and non-identifying information. The information disclosed is determined by the party requesting the information and date of finalization.

When an adoptee submits an [Application for Disclosure](#) for identifying or non-identifying information, it is for the release of the actual paper contents of the sealed adoption case file. When a request for disclosure of identifying information is received, the adoptee is requesting access to the unredacted adoption case file. This information may lead to the adoptee being able to identify and locate their birth family members.

Important ideas to remember when receiving and conducting searches:

- *Not all adoptees who request a search seek reunification with their birth family, nor do they want to exchange contact information. The CPA should clarify the purpose of the search with the adoptee so that the adoptee understands the different types of requests. The purpose can vary and includes:*
 - *Historical information from the file;*
 - *Family medical history; and*
 - *Historical information with a request for the birth parent to provide their contact information. This request is common for the adoptee who may want to reach out but may not be ready and doesn't want to go through this process again. The adoptee does not provide their contact information.*
- *If the adoptee is unwilling to exchange identifying information with the birth parents, be sure not to share that information with the birth parents.*
- *Not every birth parent is excited to learn about the search. Many birth parents have unresolved trauma. Tread lightly and give them a little time.*

- *Birth parents may be unwilling to consent to a full search and reunion; however, they may consider updating their family medical history.*

When initially contacting the adoptee, it is important to discuss all of these options, so no opportunity is missed. For more information on searching, see [Section 5.7 Conducting Disclosure a Search](#).

Anyone requesting disclosure services must submit proof of identity with their request to search. To verify the applicant's identity, the CPA may use a copy of their photo ID or other legal document determined to be acceptable by the CPA.

5.3.1 Non-Identifying Information

Non-identifying information is information from the preserved adoption file, which does not identify the birth family. Trace information is any information in the adoption file that could lead to the identification of the birth family, e.g., the birth parents' date of birth, the name of the hospital where the child was born. When an eligible party requests non-identifying information, all identifying and trace information must be redacted from the file (See [Section 5.8](#) for redacting the adoption file).

5.3.2 Who Can Request Non-Identifying Information

The CPA can release non-identifying information from the adoption file to the:

- Adoptive parents
 - Adoptive parents may have access to non-identifying information from the adoption file at any time after the entry of the final order of adoption.
- Adoptee who is 18 years of age or older
 - Suppose the adult adoptee wants information on the adoptive parents (e.g., the home study or Report of Investigation). In that case, the adult adoptee must have notarized consent from each adoptive parent or verify the parents' death.
- The CPA providing services to the adoptee or adoptive parents.

5.3.3 Special Types of Non-Identifying Information

There are *three* types of non-identifying information that require special handling: family medical history, critical medical information and letters.

5.3.3.1 Request for Updated Family Medical History Only

The adult adoptee may have a desire only to obtain current family medical information. Procedures for receiving an updated medical information request is as follows:

- *The adoptee will submit a written request for family medical information on the form Adoptee Application for Disclosure form and provide proof of identification to the VDSS Adoption Unit.*
- *VDSS will ensure that the adoptee has included proper identification and is eligible to receive information.*
- *VDSS will enter the request and adoptee's information into the current database system and complete a search of the adoption registry to verify that a record exists.*
- *VDSS will assign the case to the appropriate CPA to complete a diligent search for the birth parents utilizing all available search engines.*
- *If the diligent search was successful, the CPA must make contact with the birth parents. The CPA staff will verify the individual's identity to ensure they are part of the adoption record. Staff will explain why the updated information is needed.*
 - *If the contacted parent is unwilling to provide any updated information, the [Report of Inquiries](#) form is completed and submitted to VDSS. See [5.8 Report of Inquiries](#) and [5.9 Final Disposition](#).*
 - *If both biological parents are willing to provide updated medical information, the CPA must notify the adoptee that their request has been approved and provide the adoptee with the Medical Information Form(s).*

If both biological parents have refused to provide any updated medical information, the CPA must deny the request for one or both parents. The CPA must deny the application and notify the adoptee.

If only one parent has refused the request, the CPA can deny the request for the parent and approve the request for the other parent. The CPA must then provide the completed Medical Information Form to the adoptee.

If the biological parents cannot be located or are deceased, the CPA must deny the application and notify the adoptee.

- *If the contacted parent is willing to provide updated medical information, be sure to advise the parent that no identifying information will be released and complete the Medical Information Form. Once the search is complete and information obtained, the CPA will complete the [Report of Inquiries](#) and submit it to VDSS, see [5.8 Report of Inquiries](#) and [5.9 Final Disposition](#).*

The [Report of Inquiries](#) must state whether one or both parents provided updated medical information and must document if the applicant received the Medical Information Forms. The CPA must include a copy of the completed Medical Information Forms with the [Report of Inquires](#) for preservation purposes.

If one or both biological parents refused to provide updated medical information, the CPA must indicate the denial in the [Report of Inquiries](#).

5.3.3.2 Critical Medical Information Requested from a Licensed Provider

When a member of the adoption triad must convey critical medical information to any other member of the adoption triad, the request must come from a physician or licensed mental health provider on their letterhead, indicating the following:

- specifically, what medical, psychological, or genetic information must be conveyed, and
- a statement regarding why it is necessary ([§ 63.2-1247 C](#)).

The CPA that does the investigation must inform the adult adoptee, adoptive parents, birth parents, or adult birth siblings, whichever is applicable. It is the responsibility of VDSS to provide information from the adoption file if necessary to facilitate the search. The CPA must maintain the confidentiality of all parties and must not share **identifying information**. **The CPA is only permitted to share** the non-identifying critical medical information.

If an adult adoptee, birth parent, birth sibling, or adoptive parent contacts a CPA with critical medical information to share with other members of the adoption triad, the requirements are as follows:

- The birth parent, adoptive parent, or adoptee completes the Adoption File Update form and mails it to VDSS, and attaches verifications of critical medical information.
- The physician or licensed mental health provider, using letterhead, must send a letter indicating the need to convey critical medical, psychological,

or genetic information to the other party. The letter must state the reasons why this is necessary.

- Upon receipt of the doctor's letter certifying the necessity to share critical medical information, the CPA should inform VDSS of the request and attempt to locate the other family members.
- The CPA can contact the adult adoptee directly if there is critical medical information from the birth family.
- The CPA can share the medical diagnosis and related information but cannot release names, locations, or other identifying information to the other party.

5.3.3.3 Letters

Suppose the CPA that was involved in the adoption is willing. In that case, the CPA can act as an intermediary to exchange non-identifying information, such as letters, with the adoptive parent and birth parent when they agree in writing at the time of the adoption and the whereabouts of the adoptive parent and birth parent are known or readily accessible ([§ 63.2-1247 D](#)). The words "readily accessible" eliminate the need for the agency to search, such as those conducted when an adult adoptee applies for identifying information. A review of generally available resources, as a current or recent location contained in the file, satisfies the requirement.

Such an arrangement can occur when at least one of the adoptive parents and one of the birth parents agree in writing. It does not need to include both of the birth parents or both adoptive parents if married. Either party at any time may withdraw this arrangement. The adult adoptee may also withdraw the arrangement.

5.3.4 Identifying Information

Identifying information is information that identifies the adoptee or birth family. It includes "trace" information that may lead to the identity of the birth family. Identifying information on birth family members is only granted by the Commissioner or circuit court upon showing good cause. Good cause for adoption disclosure shows a compelling and necessitous need to identify information ([§ 63.2-1246](#)).

An application submitted when identifying information is requested from the adoption file ([§ 63.2-1246](#)). There are four types of disclosure applications: adoptee, adoptive parent, birth parent, and adult birth sibling.

By using the Application for Disclosure, the following people may apply for a disclosure of identifying information:

- Adoptees who are 18 or older may apply for disclosure.
 - The adoptee submits the [Adoptee Application for Disclosure](#).
- Birth parents and adult birth siblings, if the adoption was finalized on or after July 1, 1994, and the adopted person is at least 21 years of age, may receive search and reunion services only.
 - The birth parent submits the Birth Parent Application for Disclosure.
 - The adult birth sibling submits the Adult Birth Sibling Application for Disclosure.
- Adoptive parents of a **minor child**, if the adoption was finalized on or after July 1, 1994.
 - The adoptive parent submits the Adoptive Parent Application for Disclosure.
- In a parental placement adoption, when the birth parent executed consent on or after July 1, 1994, the entire adoption file must be open to the adoptive parents, the adoptee who is 18 years of age or older, and the birth parent who executed the written consent. However, any criminal record checks for the adoptive parents, which show a criminal record conviction, cannot be released.

The applicant must apply for disclosure to VDSS, Adoption Unit at 801 East Main Street, Richmond, Virginia 23219. If the CPA receives the application directly, the CPA should send the application to VDSS with all attachments and inform the applicant.

The Commissioner has the responsibility for deciding whether information from the adoption file is released. CPAs assist the Commissioner by conducting searches to locate birth family members. In cases where an adult adoptee seeks disclosure about their birth parents, but consent is not obtainable (death or mental capacity of the birth parents), the Commissioner may release the identifying information. The adult adoptee must show good cause as to why the information should be made available.

5.4 Adding information to the closed adoption file

Birth parents, birth siblings, and birth family members have the right to send letters to be included in the adoption file using the Adoption File Update form. Sometimes birth family members will call or write to provide updated information for the adoption file. The CPA should explain the rights of the adoptive parents and the adult adoptee for obtaining information from a closed adoption file. Providing this explanation will help the family to understand the importance of sending letters to update the adoption file of the current address and telephone number. The worker can update the information in the CPA file

and at the state level by advising the Adoption Disclosure Specialist, VDSS Adoption Unit, of the updates.

5.5 Search and Reunion Services

Adoptees, birth parents, and relatives who were separated by adoption may decide they want to search for each other and reunite. A CPA is designated by the Commissioner to locate and assess the mutual desire for communication or disclosure of contact information on behalf of these parties. If all parties agree, and as authorized by the Commissioner, the CPA must provide each party with contact information. The Application for Disclosure Form corresponding to the party making the request must be used to begin the process for search and reunion services.

5.6 Conducting a Disclosure Search

Upon receiving an application for disclosure, the Commissioner of VDSS must designate the CPA initially involved in the adoption to locate and advise the birth family or adoptee of the application using the Letter of Appointment. If the private CPA is no longer in operation, VDSS may ask the local department or another private CPA to search.

5.6.1 Letter of Appointment

The Adoption Disclosure Specialist at VDSS will act on behalf of the Commissioner by sending the Letter of Appointment to the CPA. The Letter of Appointment will include the following:

- The applicant's name.
- The type of application (adoptee, birth parent, adoptive parent, or adult birth sibling).
- The type of information requested (non-identifying and/or identifying information).
- Special instructions, such as how to give the applicant their non-identifying information when they live out of the area.
- The timeframe to complete the search or provide the non-identifying information is 90 days from the date of the Letter of Appointment.
- The Adoption Disclosure Specialist's name and contact information.
- Include the following with the Letter of Appointment to the CPA:
 - A copy of the application for disclosure.
 - A copy of the adoption file.

The Adoption Disclosure Specialist mails a copy of the Letter of Appointment to the adoptee. Once the CPA receives the Letter of Appointment, they are authorized to begin working on the disclosure case.

5.6.2 Searching for Information

There is no correct sequence of methods that work for every case. The CPA should try a combination of search techniques, and the use of a person locator tool is

permissible (such as Accurint or CLEAR). The CPA should consider multiple avenues to find information for the search and may have to go back a generation or more.

- Review the entire adoption file, from start to finish, gathering all information possible, looking for clues about the people being searched for, paying close attention to detail, and noting any piece of information that could be significant.
- Workers should note the following:
 - Full names (including variations in spellings),
 - Nicknames,
 - Addresses,
 - Relatives' names,
 - Dates of birth,
 - Professions or information on employment,
 - Locations mentioned (such as another state),
 - A physical description of the birth parents,
 - Hobbies they may have had, and
 - Handwritten notations in the margins of the file.
- Even information that may seem trivial may be significant if it will assist the worker in the search.
- When the CPA cannot identify a birth parent's identity from the adoption file, the agency's worker should obtain a copy of the child's original birth certificate. For children born in Virginia, the Adoption Disclosure Specialist may assist the agency in obtaining a copy of the original birth certificate from the Bureau of Vital Statistics.
- When the adoptee requests a birth family search, the CPA should contact the adoptee to gather information. A questionnaire format will assist the CPA in staying focused and gathering information that may be helpful for the search. The following questions are a guide:
 - What has prompted you to search? What do you hope to find?

- Describe your relationship with your family, both your adoptive family and any present family structure.
 - How and when did you find out you were adopted? How did your family handle the subject? Do you know the identity of your birth family?
 - What family members or friends are aware you are searching? What was their reaction to the news?
 - What information about you would you share with your birth parents?
 - If we can locate your birth relatives but are unwilling to have their identity disclosed, what information would you like to obtain from them?
 - List specific questions that the adoptee would like to have asked, such as their family medical history
 - If we can locate your birth relatives, and they are willing to have contact with you, how would you prefer your first contact to occur (e.g., via phone, email, letter, face-to-face)?
- If the search is to locate the adult adoptee for the birth parent or birth sibling, contact the birth parent or adult birth sibling using the above questions to gather information from the birth family.
 - The CPA should use discretion when contacting relatives or persons who know the birth parent/sibling, even when these relatives can aid in the search. Do not reveal the confidential nature of the inquiry unless it is clear from the adoption file or other information that the contacted person knows the circumstances surrounding the child's placement or knowledge of the adoption.
 - The CPA should complete a general inquiry to the relative by phone or letter without revealing any information. The CPA must not reveal the adoptee's status unless the relative states they are aware of the adoption.
 - Try to locate and search any in-house files that are related to the adoption file. Check to see if there are any other files related to the case. These could be siblings' records or records that are now in the agency's archives. Search these records.
 - Search any logs or books that your agency may have to track inquiry calls made by birth family, adoptees, or adoptive parents.
 - Check in-house databases.

- Initiate search in a person locator tool.
- Additional searchable databases:
 - [PIPL](#)
 - [Ancestry.com](#)
 - [RootsWeb](#)
 - [411.com](#)
 - [USGenWeb Project](#)
 - [Census Finder](#)
 - [Find a Grave](#)

5.6.3 Requesting an Extension

There may be instances when CPA cannot complete the search within the timeframe of 90 days. For example, the agency is waiting for consent from the birth family. If the CPA needs additional time to search, the CPA must request consent from the applicant to extend the 90-day timeframe. *The CPA sends the applicant the Adoption Search: Request for Extension form.* If the adoptee permits the CPA to request the extension, the CPA sends the completed form to the Adoption Disclosure Specialist, and at that time, the CPA may request a **30, 60, or 90-day** extension. If the adoptee does not wish to extend the search, the CPA sends the completed form to the Adoption Disclosure Specialist denying the search. The CPA must submit a written request to the Adoption Disclosure Specialist before the search deadline. The request for an extension should include the reason for the request and extension timeframe (30, 60, or 90 days).

5.6.3.1 Overdue Disclosure Cases

The Adoption Disclosure Specialist must send the CPA an overdue notice and offer the CPA technical assistance to complete the search under the following conditions:

- *The CPA does not finish the disclosure search within the 90-day timeframe and has not requested an extension, or*
- *The CPA has asked to extend the search, and the time has expired.*

The CPA must respond within seven business days by submitting the Report of Inquiries or requesting an extension.

The Adoption Disclosure Specialist must seek assistance from the Permanency Consultant, CPA Director/Designee, VDSS Adoption Supervisor/Program Manager, or Regional Director to ensure searches are completed and done timely.

5.6.4 Expediting a Disclosure Search

There may be an occasion where CPA should expedite a search. An example of this would be for a medical emergency or other situation of an emergency nature. The CPA should bring such issues to the attention of the Adoption Disclosure Specialist in the VDSS Adoption Unit so that the CPA can expedite the search process before the final disposition.

5.7 Redacting the Adoption File

Adult adoptees and adoptive parents have the right to request and receive non-identifying background information about the adoptee and the adoptee's birth family from the adoption file. The adult adoptee or adoptive parent should use the application for disclosure to request non-identifying information. When the adoptee or adoptive parent requests non-identifying information through the application process, the CPA must provide the non-identifying information in paper form.

The Adoption Disclosure Specialist must send a copy of the preserved file to the CPA once the application for disclosure is received. After receiving the copy, the CPA will closely review the documents, check word for word, and redact any information that would lead to the identity of the birth family. When working with older adoption files, the CPA worker should check the CPA historical or in-house files to ensure that the entire adoption file is reviewed and included in the redacting process.

The following identifying information must be redacted from the file, including any "trace" information that may lead to the identity of the birth family.

- Adoptee's pre-adoptive last name(s) (can leave in first and middle names)
- Full names and addresses of the birth family
- Full names and addresses of foster families
- Names of places of employment for birth parents or other relatives (if military, delete the branch, i.e., navy, army)
- Names of schools or colleges attended by birth parents or other relatives
- Month, day of birth for parents and birth siblings (can leave in the year)

- Place of birth parents and birth siblings (delete both city and state)
- Name of the hospital where the child was born
- Social security number of birth parents and other relatives
- Month and day of graduations, births, deaths, divorces of birth parents and other family members (can leave in the year)
- Name and location of the maternity home
- Name and address of churches attended by birth family
- Name and address of doctors (including OBGYN) of birth parents
- Names and addresses of any individuals who knew a member of the birth family; this could include the doctor who delivered the child, foster parents with whom the child lived, or any third party involved in the placement
- Names of agencies involved with the birth parents, except the CPA
- Any information in the file on other adoptees and foster children (if other adoptees in the same adoptive home as the one requesting information are birth siblings, their adoptive names can be left in)
- Locality and state on birth parents consent notarization (if different from the location of the circuit court where the adoption is filed)

When the adult adoptee requests non-identifying information, the CPA must not give information about the adoptive parents from the home study unless the adoptive parents are deceased (verification of death is required) or have given written notarized consent to release the home study. If one of the adoptive parents consents to the release of the home study, but the other parent does not consent, the CPA must deny the request. If one of the adoptive parents consents to release the home study, but the other parent is deceased, the adoptee must submit a copy of the deceased parent's death certificate with the consent. Consider the following reports/documents as part of the home study on the adoptive parents.

- Any report that only contains information on the adoptive family, such as the home study and any questionnaire completed by the adoptive parents.
- Reference letters on the adoptive parents.
- Medical and psychological on the adoptive parents.
- AREVA Family's Registration Form.

- Criminal record checks on the adoptive parents.
- Child protective service checks on the adoptive parents.
- The section of the Report of Investigation or Home Study Report entitled “Suitability of the Petitioners to Adopt.”
- Any paragraph in the Report of Visitation that deals solely with the adoptive parents.
- The portion of the Commissioner's Confidential Report forms about the adoptive parents.

5.7.1 Releasing Non-Identifying Information

Non-identifying information *can be mailed to the applicant; however, it must be sent by Certified Mail Restricted Delivery. Certified Mail Restricted Delivery guarantees that the USPS will relinquish possession of the mailed items only when identification has been verified and Proof of Signature has been obtained by the carrier. The USPS will send the Proof of Signature back to the LDSS. The LDSS must submit a copy of the Proof of Signature to the Home Office with the Report of Inquiries.* The applicant may also pick up the non-identifying information in person from the CPA appointed to the case after showing identification. The CPA worker should copy the identification card and attach the copy to a receipt for the applicant to sign, indicating receipt of the non-identifying information. Verification that the non-identifying information was received is documented on the Report of Inquiries (See [Section 5.9](#) for information about the Report of Inquiries).

If the applicant lives out of the area, and *the LDSS and/or applicant feel the applicant may need more support, the applicant may request that a child welfare agency or professional (such as a doctor, psychiatrist, psychologist, clergy, etc.) who is closer to their location to receive the non-identifying information.* The applicant should contact the nearby child welfare agency or professional to request this service. After confirming with the child welfare agency or professional that they will receive the information, the applicant will provide the CPA with the mailing address of the receiving child welfare agency or professional and a written statement that authorizes the named party to receive the non-identifying information. Additionally, the receiving child welfare agency or professional must send a written statement to the CPA that they are willing to accept the information on behalf of the applicant. The CPA will verify the identity of the applicant before the release of non-identifying information.

5.8 Report of Inquiries

Once the CPA completes the request from the application for disclosure (e.g., search for birth family or non-identifying information release), the CPA must send a Report of Inquiries to the Adoption Disclosure Specialist in the VDSS Adoption Unit. The Report of

Inquiries is a form that is used to document the results of the attempt to locate and advise the applicant of the search results and for the CPA to make a recommendation about disclosing identifying information to the applicant as well as document if the applicant received non-identifying information from the adoption file.

The following should be included on the Report of Inquiries:

- No identifying information should be disclosed to the adoptee, birth family parents, or birth family members without proper authorization from the Commissioner.
- The resources used to locate the birth family members should be fully documented, specifically in those cases where agency efforts were unsuccessful.
- When the adoptee submits a requests for identifying information and the CPA locates the birth family, the report should state the biological parent's wishes regarding disclosing their identity and if the birth family member consents to contact the adoptee.
- When the birth family member or adoptee is deceased, the CPA should document the verification of the death (e.g., death certificate, obituary) and attach it to the Report of Inquiries.
- The date that the CPA gave the non-identifying information to the adoptee or adoptive parent. If the CPA did not provide the non-identifying information as requested on the application, the CPA should explain why they did not provide it.
- The CPA must based their recommendation of disclosure on the parties' wishes and the relative effects disclosure may have on each member of the adoption triad.
 - The recommendation is to grant, deny, or dismiss the application. The CPA should explain why they recommended denying an application (e.g., The CPA located the birth mother and she declined disclosure of her identifying information
- Deny the application.).
- The CPA must document all fees accessed to the applicant for the search and the balance due. The Commissioner cannot grant releasing identifying information unless the agency has verified that the applicant has paid all applicable fees.

The CPA should use the following recommendations for disposition in the Report of Inquiries:

- **Contact Wanted.** If contact is wanted, the CPA should state in the report that the person was found and wants contact or consents to disclose their identifying

information. The worker should state that the CPA recommends the release of identifying information.

- **Denial.** If contact is not wanted, the report must state that the person was found but does not consent to disclosing his or her identifying information. If the birth parents are deceased, the report must state the birth parents are deceased, and the CPA must provide supporting documentation. The worker must recommend denying the disclosure of information.
- **Birth Father Unknown.** If the worker cannot find the birth father's name in the adoption file, then the report should state that the birth father is not named or not identified. The worker must recommend denying the disclosure of information on the birth father. When the CPA received the original birth certificate, the worker must state whether it identifies the birth father. See [Section 5.5.2](#) for information about requesting a birth certificate for an adoptee born in Virginia when the father's name is not listed in the adoption record.
- **Birth Siblings.** If birth parents had no other children, the worker should state that there are no adult birth siblings or no known adult birth siblings. The CPA must mention all minor siblings the birth parents are raising; however, the adoptee can only receive information about adult birth siblings.
- The birth parents have the right to decide whether they want to be the ones to tell their other children about the adoptee first or if they are comfortable with letting the adoptee contact birth siblings directly.
 - If the birth parent is comfortable allowing direct contact with the adult birth siblings and the adoptee, the CPA should contact the adult birth siblings for consent to release their identifying information. When consent is received, the CPA should recommend that the sibling's information be released to the adoptee.
 - If the birth parent is not comfortable with direct contact but wants to notify the other children first, the worker should state that disclosure of information on the adult birth siblings is denied at this time.
 - If the birth parents are deceased, deny disclosure or otherwise unable to consent to disclosure, the request for sibling information must be denied.
- **Ongoing Search.** Suppose one person is found and wants contact, but another person inquired about in the adoptee's application is not yet found. In that case, the report should recommend disclosure be granted for one, and the search for the other person be continued.

- **Search No Longer Wanted.** When an adoptee who applied to search changes his mind and no longer wishes to continue with the search, the worker should make the recommendation that the search case is closed.
- **Consult with the Adoption Unit.** The CPA should contact the Adoption Disclosure Specialist when there is a special circumstance that may affect the recommendation for disclosure.

5.8.1 Waiting for the final disposition

If an adoptee, birth parent, or birth sibling has an open case with the CPA, he or she might call to obtain a status on the case. The worker should inform the applicant of the search efforts being made (e.g., phone calls, letters sent out) and the current status of these efforts. If asked, the worker may provide to the party search resources. [International Soundex Reunion Registry](#) is the largest and oldest registry available.

The [Child Welfare Information Gateway](#) has factsheets of information and resources that the CPA can provide to birth parents, adopted persons, and others interested in learning more about the process of searching for birth relatives. Additional resources during the disclosure process are [Access to Adoption Records by the Child Welfare Information Gateway and State Statutes Search](#). Support group information may assist the adoptee, adoptive parent, or birth parent during the search process. The website [American Adoption Congress Support Group Directory](#) provides a list of support groups in the state that they may reside.

5.9 Final disposition

The Commissioner makes the final decision about releasing identifying information after a review of the Report of Inquiries. The Adoption Disclosure Specialist will send the CPA and applicant a letter of Final Disposition. The Final Disposition letter provides the search results and the Commissioner's decision about disclosure. Identifying information must not be released unless the Commissioner has granted the disclosure of identifying information.

If the final disposition indicates that the application for disclosure is granted, the CPA must share the identifying information with the adoptee, birth parent, adult birth sibling, or adoptive parent.

If the final disposition is to deny the application for disclosure, the adoptee, birth parent, adult birth sibling, or adoptive parent must be told of the right to file a petition with the circuit court.

The petition is filed in the Richmond City Circuit Court (which is the court where VDSS is located) if the adoptee lives out of state or the circuit court in the locality where the

adoptee resides if the adoptee lives in Virginia. Virginia Department of Social Services must be made a party to the petition.

5.10 Charging a fee

Virginia law allows fees to be charged for adoption searches.

Fees are to be determined based on income, family size, and indirect costs to the agency or average costs. The fee schedule is established by the State Board of Social Services.

5.10.1 Fee schedule for adoption searches

The formula is as follows:

For CPA, the CPA fiscal manager should calculate an indirect cost factor covering expenses other than the direct worker's salary and benefits (such as overhead expenses).

The time the worker spends providing the service should be recorded. The time spent is multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits) and the indirect costs.

Determine the applicant's family size. Include all persons for whom the applicant and their spouse are responsible.

Determine the applicant's gross monthly income. Include all income available to the family. Accept the applicant's declaration of income.

Determine the applicant's percent of median income using the [state median income \(SMI\) chart](#). The SMI chart is available at the VDSS internal website (SPARK) and is updated each year. The updated SMI is issued by a broadcast each year before September 1.

If income falls between two percentages, use the lower figure. Reduce or waive the fee if the CPA finds circumstances that affect the applicant's ability to pay, such as heavy debt, unusual medical or educational expenses, or heavy financial support of relatives.

The CPA must report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds must be adjusted to reflect the state and federal share of income collected. Using the percentage of fee scale shown below, determine the fee assessed.

<u>Percentage of Median Income</u>	<u>Calculated Fee to be Charged</u>
50% and below	0% (No charge)

60%	10%
70%	25%
80%	50%
90%	75%
100%	100%

5.10.2 Determination of direct costs

In determining direct costs, the CPA providing the service has the option of using the actual salary and benefits of the worker performing the service, an average of the salary and benefits, or the minimum salary and benefits.

If the actual salary and benefits of the worker performing the service are used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging the customer.

Using an average, use figures from the previous fiscal year's budget and calculate it yearly during May or June. VDSS reviews its budget during this time. The method of averaging, which appears to conform to the statute's intent, which talks about the actual cost of the service, would be to average the actual salaries and benefits of the workers performing the services.

The agency may use 20 hours as an average, multiply this by the agency hourly costs, factor in family size and income, and charge the applicant that amount in advance. When the search is complete in less than 20 hours, the agency must return the unexpended funds.

If the search is not completed in 20 hours, the agency should ask the applicant if the agency should continue the search at the worker's hourly cost (written permission from the applicant is mandatory) or the agency can continue the search but not charge the applicant more than the initial estimated fee which is based on 20 hours of work (this is an option because guidance allows an agency to recommend waiving all or part of the fee in unusual circumstances).

6

NON-AGENCY PLACEMENT ADOPTIONS

TABLE OF CONTENTS

6.1	Introduction	3
6.2	Parental placement adoptions	3
6.2.1	Timeline for parental placement adoption	4
6.2.2	Responsibilities of the agency in a parental placement adoption before the adoption petition is filed in circuit court	5
6.2.3	Duties of the attorney in parental placement adoption in juvenile court	12
6.2.4	Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court	16
6.2.5	Duties of the Commissioner in a parental placement adoption when reports of suspected violations of law in the placement and adoption	20
6.2.6	Duties of the circuit court in a parental placement adoption after the adoption petition is filed in circuit court	21
6.2.7	Duties of the attorney in a parental placement adoption after the adoption petition is filed in circuit court	23
6.2.8	Duties of the Commissioner in a parental placement adoption after the adoption petition is filed in circuit court	23
6.2.9	Responsibilities of the agency in a parental placement after the adoption petition is filed in circuit court	24
6.2.10	Adoption recommended by birth parents, physicians, Virginia licensed attorneys, and clergymen	30
6.3	Close relative adoptions	31
6.3.1	Close relative placement for a child who has been in the home less than two years	31

Child and Family Services Manual

F. Adoption

6.3.2	What is needed to file in circuit court.....	32
6.3.3	Close relative placement for a child who has been in the home two or more years	32
6.3.4	Finalizing the adoption.....	33
6.3.5	Responsibilities of the agency	33
6.3.6	Duties of the attorney	38
6.3.7	Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years.....	41
6.3.8	Duties of the Commissioner	43
6.4	Stepparent adoptions	43
6.4.1	Case opening	44
6.4.2	Review the petition and Order of Reference	45
6.4.3	Duties of the attorney	49
6.4.4	Duties of the Commissioner	50
6.4.5	Duties of the circuit court	50
6.5	Adult adoptions	54
6.5.1	Specifics for Adult Adoption.....	54
6.5.2	Responsibilities of the agency in adult adoption.....	54
6.5.3	Report of Visitation	59
6.5.4	Distribute copies of the report.....	59
6.5.5	What should be done following final disposition	59
6.5.6	Duties of the attorney in an adult adoption	60
6.5.7	Duties of the court	60
6.5.8	Duties of the Commissioner	62
6.6	Intercountry adoptions	62
6.6.1	Pre-adoptive requirements	62
6.6.2	Adoptive home study	63
6.6.3	Responsibilities of the LDSS in inter-country adoptions.....	63
6.6.4	Duties of the attorney	67
6.6.5	Duties of the Commissioner	67
6.6.6	Duties of the circuit court	67

6

NON-AGENCY PLACEMENT ADOPTIONS

6.1 Introduction

A non-agency placement adoption occurs when the child is not in the custody of a local department of social services (LDSS) or licensed child placing agency (LCPA). In a non-agency placement, the birth parents or legal guardians consent to the adoption, and parental rights are terminated by entry of the Final Order of Adoption. Depending on the type of non-agency placement, the local agency may have identified responsibilities to assist in the completion of the adoption.

In all cases, regardless of whether the case is in the Juvenile and Domestic Relations Court or the Circuit court, all legal custodians and anyone named as a party to a custody or visitation petition for a child, must be given proper notification of any adoption proceeding and be given an opportunity to be heard.

Fees may be charged for non-agency adoptions and are determined based on income, family size, and indirect costs to the agency. The fee schedule is established by the State Board of Social Services. See [Section 5.9](#) for additional information on charging a fee.

6.2 Parental placement adoptions

Parental placements for the purpose of adoption are governed by the provisions in Chapter 12 of the Code of Virginia, [§ 63.2-1230](#) through [63.2-1240](#).

When a LCPA or LDSS is requested to and accepts custody of a child for the purpose of placing the child with adoptive parents recommended by the birth parents or a person other than a LDSS or LCPA, the birth parents select either the parental placement adoption provisions or the agency adoption provisions ([Section 3.5](#)) for the adoption of their child.

An agency or local board must provide information to the birth parents regarding the parental placement adoption and agency adoption provisions, and must provide the birth parent the opportunity to be represented by independent legal counsel as well as counseling. No person must charge, pay, give, or agree to give or accept any money, property, services, or other thing of value in connection with such adoption except as provided in [§ 63.2-1218](#).

In a parental placement, the agency completes a home study and a petition is filed in the juvenile and domestic relations court for execution of consent and awarding custody to the prospective adoptive parents. The juvenile and domestic relations court reviews the home study and collateral material to determine whether the requirements of law are met, accepts parental consent, and transfers custody to the adoptive parents. An adoption petition may then be filed in circuit court.

6.2.1 Timeline for parental placement adoption

The overall steps in a parental placement adoption are as follows:

- The agency must receive a request for a home study from the court.
- A home study is completed by the agency and submitted to the court.
- A petition is filed for execution of consents in juvenile and domestic relations district court.
- The court accepts consent and awards custody to the prospective adoptive parents.
- A petition for adoption is filed in the circuit court.
- The circuit court enters an interlocutory order if everything is in compliance with the law.
- The agency conducts supervision of the placement and submits a Report of Visitation to the circuit court (See Section [3.8.2](#) for more information on the Report of Visitation).

- After a six-month supervisory period, the circuit court enters a Final Order of Adoption.

6.2.2 Responsibilities of the agency in a parental placement adoption before the adoption petition is filed in circuit court

In a parental placement, in order for the juvenile and domestic relations court to make the required determinations before accepting consent, the agency must perform the tasks in the following sections.

6.2.2.1 Open the case

In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the juvenile and domestic relations court. The request will come from either the birth parent or adoptive parent. In some cases, the agency will receive an order for a home study directly from the court. When the request for services comes from either the birth parent or the prospective adoptive parents, a Service Application is completed. In cases where the court order initiates the request for services, the court order serves as the Service Application.

6.2.2.1.1 Set up case records

A parental placement case record should contain the following documents:

- Service Application (or court order).
- All court orders.
- Home study, including all certifications.
- Report of Visitation.
- All correspondence.
- Documentation, including background forms and information on the birth family.
- Documentation of the simultaneous meeting between adoptive and birth parents if held. If the simultaneous meeting is not held, all contacts and meetings with the birth and adoptive family must be noted.
- Documentation of the counseling provided to the birth family.

- Case narratives.

6.2.2.2 Conduct a home study of the prospective adoptive home

The manner in which a family receives a child for adoption must have no bearing on how the family is assessed for the purposes of an adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, the birth parents, or a legal guardian.

The difference between completing a home study for a child placed by an agency and for a child placed by the birth parents is in the role of the agency, not in the assessment of the adoptive family. In an agency placement, the agency approves or denies adoptive applicants based on home approval standards issued by Virginia Department of Social Services (VDSS). In a parental placement, the agency makes a recommendation to the court regarding the suitability of the family to adopt. The recommendation is based on an assessment of whether the placement is contrary to the best interest of the child based on information gathered during the home study process.

The adoptive home study process involves a shared determination by the adoptive applicants and the agency as to whether they can meet the needs of an adopted child. It should be carried out so that it brings an increased understanding of the adoption process and begins to prepare the applicants for adoption. A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child.

In a parental placement, it is important for the home study to be completed as early in the process as possible. Early completion of the home study provides safeguards for the child and must be completed and filed with the court prior to the consent hearing.

In a parental placement, the agency is not responsible for approving or denying the family. State law gives birth parents the right to place their child with a family of their choice ([§ 63.2-1230](#)). The agency's responsibility is to assess the family and report its findings to the juvenile court. The birth family and the juvenile court will make the determination as to whether the family is a suitable family for the child.

After completing the home study, the agency should inform the birth parents of their recommendation to the court.

6.2.2.3 Agency meetings with the birth parent and adoptive parent

In addition to the information gathered during the home study assessment, the agency worker must:

- Meet at least once with the birth parents and the prospective adoptive parents. If the birth parents and prospective adoptive parents agree, the meeting may occur simultaneously ([§63.2-1231](#)).
 - The purpose of this simultaneous meeting is to facilitate the exchange by the birth parents and adoptive parents of identifying information including full names, addresses, physical, mental, social, and psychological information, and any other information necessary to promote the welfare of the child.
 - The exchange of names and addresses may be waived if both parties agree in writing to waive the disclosure of this information.
 - If the worker is unable to complete the simultaneous meeting, it must be documented in the home study the reasons why they were not able to meet this requirement. Upon review of the home study, the court may waive the requirement to meet simultaneously where the opportunity for compliance is not reasonably available under the circumstances in accordance with [§ 63.2-1231](#).
- Inform the birth parents of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families. Anyone may provide the required information to the birth parents including doctors, attorneys, ministers, counselors, and service workers. However, it is the service worker's responsibility to determine whether this information has been provided, and if not, to provide it.
- When birth parents request additional counseling to help them work through feelings and issues related to placing the child for adoption, the role of the agency is to assist the birth parents in obtaining this counseling. The agency may provide the counseling directly or refer the birth parents to another community agency.
 - Documentation that the birth parents were provided with this information and related counseling services is required and may serve as evidence for the court. The court is required to determine that the birth parents' consent is informed and uncoerced before proceeding with the adoption ([§ 63.2-1232](#)).

- The prospective adoptive family must be informed of alternatives to adoption; adoption procedures, including the need to address the parental rights of the birth parents; the procedures for terminating parental rights; and the opportunities for adoption of other children.
 - Documentation that the adoptive parents were provided this information is required and may serve as evidence for the court. The court is required to determine that the adoptive parents' decision is informed and uncoerced and that they intend to file an adoption petition and proceed toward a Final Order of Adoption ([§ 63.2-1232](#))
 - The family can be informed of this information by the attorney or the agency. The agency should determine whether the family has received this information and, if not, provide it during the course of the home study. The home study should indicate that this information was provided to the adoptive parent.

6.2.2.4 No exchange of property, advertisement, or solicitation

The agency must determine that there has been no exchange of property, advertisement, or solicitation except that which is allowed in [§ 63.2-1218](#) and [§ 63.2-1232](#). Fees that are allowable include:

- Reasonable and customary services provided by a licensed or duly authorized child placing agency (CPA) and fees based on prevailing community rates.
- Payment or reimbursement for medical expenses and insurance premiums which are directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, for mental health counseling received by the birth mother or birth father related to the adoption, and for expenses incurred for medical care for the child.
- Payment or reimbursement for reasonable and necessary expenses for food, clothing, and shelter when, upon the written advice of her physician, the birth mother is unable to work or otherwise support herself due to medical reasons or complications associated with the pregnancy or birth of the child.
- Payment or reimbursement for reasonable expenses incurred incidental to any required court appearance including transportation, food, and lodging.

- Usual and customary fees for legal services in adoption proceedings;
- Payment or reimbursement of reasonable expenses incurred for transportation in connection with any of the services specified in [§ 63.2-1218](#) or intercountry placements as defined in [§ 63.2-1104](#) and as necessary for compliance with state and federal law in such placements.

If the agency suspects that there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, the agency must report the findings to the Commissioner for investigation. (If the agency has questions as to whether a violation of [§ 63.2-1218](#) has occurred, it is recommended that the agency ask the prospective adoptive family to obtain an itemized account of services rendered for the fees charged.)

6.2.2.5 Binding contract

The agency must determine that all parties understand that no binding contract exists regarding placement or adoption of the child ([§ 63.2-1232](#)).

Birth parents may change their minds about adoption, even after executing consent. Consent does not terminate parental rights and may be revoked by the birth parents within **seven days** of execution, upon proof of fraud or duress or by mutual consent of the birth and adoptive parents until entry of the Final Order of Adoption.

The adoptive parents may also decide not to pursue the adoption. The agency's responsibility is to ensure that both parties understand that the only guarantee of adoption in a parental placement is the entry of the Final Order of Adoption.

In a parental placement adoption the birth and adoptive parents may decide to enter into a Post Adoption Contact and Communication Agreement (PACCA) per [§ 63.2-1220.2](#) (See [Section 3.5](#) for more information about PACCA). Failure to comply with a PACCA, does not impact the validity of the consent to the adoption, the voluntary relinquishment of parental rights, the voluntary, or involuntary termination of parental rights, or the finality of the adoption.

6.2.2.6 Provide the juvenile court with a Report of Home Study

The Report of Home Study is a separate document from the home study; however, information in the home study should be included in, and consistent with, information in the Report of Home Study.

6.2.2.7 Report of Home Study format

The format for the Report of Home Study should be used as recommended by the VDSS Adoption Unit. The report must include the following:

- Information regarding whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child.
- The physical, mental and developmental condition of the child.
- Information about both birth parents, including:
 - Names and addresses.
 - Why the parents desire to be relieved of the responsibility for the child and what their attitude is toward the proposed adoption.
 - Physical description, ages, races, marital status, education, employment, and, if known, physical and mental health.
- The circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, and if applicable, a statement as to whether the requirements of law related to ICPC have been met.
- All financial agreements or exchange of property among the parties, including fees paid for services related to the placement and adoption of the child, must be reported to the court.
 - The agency includes this information in the Report of Home Study that is submitted to the juvenile court.
 - The agency is also responsible for reporting suspected violations to the Commissioner.
- A statement as to whether the requirements of law related to execution of consent have been met. These requirements include:

- The child must be at least three days old before consent can be executed ([§ 63.2-1233](#)).
 - When there is an identified child, the agency must verify the child's birth (if a birth certificate is not available due to the child's recent birth, verification may be made through a hospital certificate). The agency should make an attempt to get a certified copy of the birth certificate with the birth registration number as soon as possible.
 - If the identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not reasonably ascertainable, verification of compliance with the Virginia Birth Father Registry must be provided to the court ([§ 63.2-1233 1b](#)).
 - The birth registration number should be listed on the Report of Visitation and the Commissioner's Confidential Report form.
 - The agency must include birth information in the Report of Home Study.
- A statement in the report of the efforts made to encourage birth parents to provide information related to all reasonably ascertainable background, medical, and psychological records of the child to the prospective adoptive parents. A list of reports given to the prospective adoptive parents must also be submitted with the Report of Visitation.

The birth parents must be aware of their opportunity to be represented by legal counsel, and consent of the birth parents must be informed and uncoerced.

Additional information is reported on the [Certification form](#). The Certification form is signed by the agency worker and notarized certifying the following:

- That the birth parents are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families.
- The prospective adoptive parents have been counseled with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children, the prospective adoptive parents' decision appears to be informed and uncoerced, and the adoptive parents have stated they intend to file an adoptive petition and proceed towards a Final Order of Adoption.

- During the course of the home study, the agency worker met with birth parents and adoptive parents simultaneously; or
 - The simultaneous meeting between the agency worker, the birth parents and adoptive parents did not occur because the child was being adopted by his/her grandparents, adult sibling, or adult uncle or aunt.
- Identifying information including full names, addresses, physical, mental, social and psychological information was exchanged between the birth parents and the adoptive parents.

The agency submits the Certification form to the court with the Report of Home Study.

The original and two copies of the Report of Home Study are provided to the court and the court, at its discretion, provides the birth and adoptive parents with copies of the home study.

6.2.2.8 False information

If the agency becomes aware that any person has knowingly and intentionally provided false information in writing and under oath, which is material to an adoptive placement, the agency must report this to the Commissioner ([§ 63.2-1217](#)).

Note: The above responsibilities all take place at the juvenile court level. Once the adoption petition is filed in the circuit court, the agency has additional responsibilities.

6.2.3 Duties of the attorney in parental placement adoption in juvenile court

The duties of the parent's attorney in a parental placement adoption do not require any action by the CPA (CPA references LDSS or LCPA). However, the CPA should be knowledgeable of what actions the attorney is required to take in facilitating the adoption.

- File petition for consent hearing ([§ 63.2-1237](#)).
- Obtain consent from ([§ 63.2-1202](#)):
 - The mother.
 - The father who may be:

- An acknowledged;
- An adjudicated;
- A presumed; and/or
- A registered putative father.
- If a legal father denies that he is the father of a child born to his wife or ex-wife and the child was born within 300 days or ten months of the marriage ending, the agency must make all effort to identify the father by gathering more information from the wife or ex-wife, verifying paternity through testing or checking the Virginia Birth Father Registry.
- The child who is 14 years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent ([§ 63.2-1202](#)).
- If consent cannot be obtained from at least one parent, the court must deny the petition and determine custody of the child pursuant to [§ 63.2-1233](#) unless all parents are deceased ([§ 63.2-1233.3](#)).

Consent is not required when:

- A birth father denies under oath and in writing the paternity of the child. A denial of paternity may be withdrawn no more than ten days after it is executed. Once a child is ten days old, any executed denial of paternity is final and constitutes a waiver of all rights with respect to adoption of the child and cannot be withdrawn. ([§ 63.2-1202](#))
- The birth father is convicted of a rape, carnal knowledge of a child between 13 and 15, or adultery or fornication with a daughter, granddaughter, son, grandson, father, or mother and the child to be adopted was born of this action.
- The birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor must the birth father be entitled to notice of any of the adoption proceedings ([§ 63.2-1233.6](#))
- A person's parental rights have been terminated by a court of competent (legally qualified) jurisdiction.

Child and Family Services Manual

F. Adoption

- If birth parents without cause, has neither visited nor contacted the child for a period of six months prior to the petition for adoption.
 - The adoptive parent needs to show evidence that the birth parents has not visited or contacted the child for a period of six months.
 - A birth parent is still required to receive noticed and be heard on the allegation of abandonment.
 - Failure of the non-consenting parent to appear at any scheduled hearing constitutes a waiver of such objection.
- If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent ([§ 63.2-1233.5](#)). A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required ([§ 63.2-1203.3](#)).
- When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by the divorce decree or another order of a court ([§ 63.2-1202](#)).
- When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not required if ([§ 63.2-1202](#)):
 - The putative father did not register with the Virginia Birth Father Registry his consent is not required ([§ 63.2-1233.1b](#)). If the identity of the birth father is reasonably ascertainable, but the whereabouts or the birth father are not reasonably ascertainable, verification of compliance with the Virginia Birth Father Registry must be provided to the court ([§ 63.2-1233.1b](#));
 - The identity of the birth father is ascertainable and his whereabouts are known, he is given notice of the proceedings by registered or certified mail to his last known address and fails to object to the proceeding within **15 days** of the mailing of the notice ([§ 63.2-1233.1c](#)); or
 - The putative birth father named by the birth mother denies under oath and in writing paternity of the child ([§ 63.2-1202](#)).

When the consent of one parent has been obtained, the consent of the other parent may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable ([§ 63.2-1203 A](#)).

The circuit court may grant the petition without consent if:

- **Fifteen days** after personal service of notice of the petition for adoption. Personal notice is by certified or registered mail. There should be a returned postal receipt signed by the parent to indicate that notice was received and this notice is kept in the record ([§ 63.2-1203 A1](#));
- If personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party or parties whose consent is required; or ([§ 63.2-1203 2](#));
- If a birth parent is deceased, upon the filing of a death certificate for a deceased parent with the court ([§ 63.2-1203 3](#)); or
- If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable ([§ 63.2-1203 2](#)).

If the birth parent who is a resident of Virginia decides to place the child for adoption in another state and the laws of that other state govern the proceedings for the adoption, the birth parent may elect to waive the execution of and instead execute consent to the adoption pursuant to the laws of the receiving state.

When waiving Virginia law and using the laws of the other state, a written waiver must be executed under oath and include:

- A statement that the birth parents received independent legal counsel from an attorney licensed in Virginia who explained the laws of Virginia and the laws of the other state where the birth parent desired to use those laws for the adoption. This statement must also include that information was given to the birth parents of the effects of waiving their consent in Virginia for the consent process of the other state.
- A statement that the birth parent elects not to use the consent procedures of Virginia but instead use the laws of the other state where the child was placed.
- The name, address, and telephone number of the attorney whom provided the independent legal counsel.

Failure to follow these procedures will render any waiver of consent pursuant to [§ 63.2-1233](#) invalid.

6.2.4 Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court

The duties of the juvenile and domestic relations court in a parental placement adoption do not require any action by the CPA. However, the CPA should be knowledgeable of what actions the court may take in hearing the adoption petition.

The court must advance the consent proceedings on the docket to be heard within **ten days** of filing of the petition, or as soon thereafter as practicable ([§ 63.2-1230](#)).

Consent must be executed:

- In the juvenile and domestic relations court in the locality where the child to be adopted was born; in the locality where the birth parents reside; or in the locality where the prospective adoptive parents reside ([§ 16.1-243 1c](#)); or
 - If the birth parent does not reside in Virginia, before a court having jurisdiction over child custody matters in the jurisdiction where the birth parent resides when requested by a Virginia court pursuant to [§ 20-146.11](#) ([§ 63.2-1230](#)).
- By the birth parents while before the juvenile and domestic relations court in person and in the presence of the prospective adoptive parents ([§ 63.2-1233](#)).

If the child was placed by the birth parents with the prospective adoptive parents and if both birth parents have failed, without good cause, to appear at a hearing to execute consent, the court may grant the petition without consent of either birth parent and enter an order waiving consent and transferring custody of the child to the prospective adoptive parents ([§ 63.2-1233 4](#)).

- Transferring custody becomes effective immediately.
- Prior to the entry of such an order, the court may appoint legal counsel for the birth parents, and must find by clear and convincing evidence that the:
 - Birth parents were given proper notice of the hearing to execute consent and of the hearing to proceed without their consent.
 - Birth parents failed to show good cause for their failure to appear at such hearings.
 - The consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable.

Child and Family Services Manual**F. Adoption**

In determining whether the valid consent of any person whose consent is required is withheld contrary to the best interests of the child, or is unobtainable, the court must consider whether granting the petition for adoption would be in the best interest of the child. In determining the best interest, the court must consider all relevant factors, including ([§ 63.2-1205](#)):

- The birth parents' efforts to obtain or maintain legal and physical custody of the child.
- Whether the birth parents are currently willing and able to assume full custody of the child.
- Whether the birth parents efforts to assert parental rights were thwarted by other people.
- The birth parents' ability to care for the child.
- The age of the child.
- The quality of any previous relationship between the birth parents and the child and between the birth parents and any other minor children.
- The duration and suitability of the child's present custodial environment.
- The effect of a change of physical custody on the child.

Before accepting a consent that is executed in court, the juvenile and domestic relations court must determine that:

- The child is at least three days old ([§ 63.2-1233](#)).
- The birth parents are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced ([§ 63.2-1232 A13](#)).
- A licensed or duly authorized CPA has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of the birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; the prospective adoptive parents' decision is informed and uncoerced; and they intend to file an adoption petition and proceed toward a Final Order of Adoption ([§ 63.2-1232 A2](#)).

Child and Family Services Manual

F. Adoption

- The birth parents and adoptive parents have exchanged identifying information including full names, addresses, physical, mental, social, and psychological information, and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses ([§ 63.2-1232 A3](#)).
- Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists ([§ 63.2-1232 A5](#)).
- There has been no violation of law in connection with the placement ([§ 63.2-1232 A5](#)).
- A licensed or duly authorized CPA has conducted a home study of the prospective adoptive home and that during the course of the home study, the worker has met at least once with the birth parent and prospective adoptive parents simultaneously ([§ 63.2-1232 A6](#)).
 - The court can waive the requirement of the simultaneous meeting where the opportunity for compliance is not reasonably available under the applicable circumstances ([§ 63.2-1233 4](#)).
- The birth parents have been informed of their opportunity to be represented by legal counsel ([§ 63.2-1237](#)).
- If any of the above requirements have not been met, the juvenile and domestic relations court must refer the birth parent to a licensed or duly authorized CPA for investigation and recommendation ([§ 63.2-1232 B](#)).

Consent must be revocable as follows ([§ 63.2-1234](#)):

- By either consenting birth parent for any reason for up to **seven days** from its execution; however, the seven-day revocation period may be waived provided that the child is ten days old and the consenting birth parent acknowledges having independent legal counsel regarding the effect of the waiver ([§ 63.2-1234](#)).
- Revocation must be in writing, signed by the revoking party or counsel of record for the revoking party, and filed with the clerk of court in which the petition was filed during the business day of the court, within the following time period:

Child and Family Services Manual

F. Adoption

- If the revocation period expires on a Saturday, Sunday, legal holiday, or any day on which the clerk's office is closed, the revocation period must be extended to the next day that is not Saturday, Sunday, legal holiday, or other day on which the clerk's office is closed.
- Upon the filing of a valid revocation within the time period specified, the court must order that any consent given for the purpose of such placement is void and, if necessary, determine custody of the child as between the birth parents.
- By any party prior to the Final Order of Adoption (i) upon proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written mutual consent of the birth parents and prospective adoptive parents ([§ 63.2-1234 2](#)).

After accepting consent, the juvenile and domestic relations court must transfer custody to the prospective adoptive parents, to be responsible for the care of the child until such time as the court order is modified ([§ 63.2-1233](#)).

- The juvenile and domestic relations court must review such orders of appointment at least annually until such time as the Final Order of Adoption is entered ([§ 63.2-1233](#)).
- When a child is placed in an adoptive home by the birth parent and a court of competent jurisdiction has not entered an interlocutory order, the child must not be removed from the physical custody of the adoptive parents, except ([§ 63.2-1103](#)):
 - With the consent of the adoptive parents;
 - Upon order of the juvenile and domestic relations district court or the circuit court of competent jurisdiction;
 - Pursuant to [§ 63.2-904](#), which removal must be subject to review by the juvenile and domestic relations district court upon petition of the adoptive parents; or
 - Upon order of the court which accepted consent when consent has been revoked as authorized by [§ 63.2-1204](#) or [63.2-1223](#).

After the expiration of the appropriate revocation period ([§ 63.2-1206](#)):

- When a birth parent or an alleged birth parent attempts to obtain or regain custody or attempts to exercise parental rights to a child who has been placed for adoption, there must be no parental presumption in favor of any party.

- Upon the motion of any such birth parent or alleged birth parent, or upon the motion of any person or agency with whom the child has been placed, the court must determine:
 - Whether the birth parent or alleged birth parent is a person whose consent to the adoption is required.
 - If so, whether, in the best interest of the child, the consent of the person whose consent is required is being withheld contrary to the best interest of the child or is unobtainable.
- If the juvenile and domestic relations court suspects that there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, the court must report the findings to the Commissioner for investigation ([§ 63.2-1218](#)).
- When services have been provided by an LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not accept parental consent until proof of payment of fees has been received ([§ 63.2-1248](#)).
- If the juvenile and domestic relations court determines that the placement will be contrary to the best interests of the child, the court must inform the birth parents. If the birth parents choose neither to retain custody of the child nor to designate other prospective adoptive parents, or if the birth parents' whereabouts are not reasonably ascertainable, the court must determine custody of the child ([§ 63.2-1235](#)).

6.2.5 Duties of the Commissioner in a parental placement adoption when reports of suspected violations of law in the placement and adoption

When reports of suspected violations of law in the placement and adoption of the child are received by the Commissioner, the Commissioner must ([§ 63.2-1218](#)):

- Investigate the suspected violation and take appropriate action when the investigation reveals that:
 - There may have been a violation of law; the Commissioner must report his/her findings to the appropriate attorney for the Commonwealth;
 - The violation occurred in the course of the practice of a profession or occupation licensed or regulated pursuant to Title 54.1, the Commissioner must also report his/her findings to the appropriate

regulatory authority for investigation and appropriate disciplinary action ([§ 63.2-1219](#)); or

- The violation involves engaging in the activities of a CPA without a license, the Commissioner may file suit with the court of record having chancery jurisdiction ([§ 63.2-1701](#)).
- The Commissioner is also authorized to investigate and may refer to the attorney for the Commonwealth any person who has knowingly and intentionally provided false information in writing and under oath, which is material to an adoptive placement ([§ 63.2-1217](#)).

6.2.6 Duties of the circuit court in a parental placement adoption after the adoption petition is filed in circuit court

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The clerk of court where the petition is filed sends a copy of the petition, the interlocutory order, and all exhibits to the CPA, whichever agency completed the home study required by [§ 63.2-1231](#). A copy is also sent to the Commissioner ([§ 63.2-1209](#)).

- The petition must be signed by the petitioner and counsel of record, if any ([§ 63.2-1237](#)).
- In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition must be under oath ([§ 63.2-1237](#)).

The circuit court must not accept a petition in a parental placement unless:

- Copies of documents executing consent, transferring custody to the petitioners, and the home study are filed with the petition ([§ 63.2-1237](#)).
- The circuit court has determined that the findings required by law have been made by the juvenile and domestic relations court.

When all legal requirements related to executing consent pursuant to ([§ 63.2-1232](#)) have been met, the circuit court may dispense with the Order of Reference and enter an interlocutory order.

In those parental placements where an Order of Reference or an interlocutory order is entered, the circuit court must expeditiously consider the merits of the petition upon receipt of the report (§§ [63.2-1208 B](#) and [63.2-1212 A](#)).

The court may take any action it finds appropriate if the report is not submitted in the specified time.

When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court (§ [63.2-1214](#)).

The clerk of court sends a copy of any order entered to the agency and to the Commissioner (§ [63.2-1238 A](#)).

Upon entry of a Final Order of Adoption or any other final disposition, the clerk of court forwards all reports submitted with the Final Order of Adoption to the Commissioner for preservation (§ [63.2-1246](#)).

When services have been provided by an LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not enter a Final Order of Adoption until proof of payment of fees has been received (§ [63.2-1248](#)).

The court may not enter a Final Order of Adoption without the information needed to complete a Report of Adoption (VS-21); unless the court determines this information is unavailable or unnecessary (§ [63.2-1213](#)). The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate (See [Section 3.11.1](#) for more information on the Report of Adoption form).

After the entry of a final order, the clerk of court sends to the State Department of Health, Office of Vital Statistics, a completed Report of Adoption, VS-21, and a completed application for a certified copy of a birth record, VS-6, with a check for the required fee (§ [32.1-262](#)).

After the expiration of six months from the date of entry of any Final Order of Adoption from which no appeal has been taken to the court of appeals, the validity of the final order must not be subject to attack in any proceedings, collateral or direct, for any reason, including fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any person, and the Final Order of Adoption must be final for all purposes (§ [63.2-1216](#)).

6.2.7 Duties of the attorney in a parental placement adoption after the adoption petition is filed in circuit court

The following are duties of the attorney for the adoptive family. These duties do not fall under the purview of the agency and require no action on the part of the agency.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- Files the petition which must state that the findings required by ([§ 63.2-1232](#)) have been met and must be accompanied by the following documentation:
 - Copies of documents executing consent.
 - A copy of the court order transferring custody of the child to the prospective adoptive parents.
 - A copy of the home study required by ([§ 63.2-1231](#)).
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the child.

6.2.8 Duties of the Commissioner in a parental placement adoption after the adoption petition is filed in circuit court

The VDSS, Adoption Unit is the office which carries out the duties of adoption for the Commissioner. These duties include:

- Establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family ([§ 63.2-1246](#)).
- Accepting for preserving, adoption cases including related exhibits ([§§ 63.2-1238](#) and [63.2-1212](#)).
- Arranging through the ICPC for investigation and supervisory visits to be made when an out-of-state/country agency is involved ([§ 63.2-1240](#)).

6.2.9 Responsibilities of the agency in a parental placement after the adoption petition is filed in circuit court

6.2.9.1 Review the petition

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

The CPA may review the petition to be sure the petition is filed in the court having jurisdiction where the petitioners reside, or in the locality or city in which the birth parent executed a consent, or the locality or city in which the CPA that placed the child is located and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel, if any.

In a parental placement, the petition must state that the findings required by ([§ 63.2-1232](#)) have been met and should be accompanied by the following documentation:

- Copies of documents executing consent.
- A copy of the court order transferring custody of the child to the prospective adoptive parents.
- A copy of the home study required by ([§ 63.2-1231](#)).

6.2.9.2 Acknowledge the interlocutory order

In a parental placement adoption, if the other requirements of ([§63.2-1230 through 63.2-1240](#)) were met, the circuit court may dispense with an investigation and proceed with the entry of an interlocutory order. The agency which completed the home study required by ([§ 63.2-1231](#)) is responsible for providing supervision after the entry of the interlocutory order. The agency must review and acknowledge to the court receipt of the interlocutory order. A copy of the acknowledgment should be sent to the VDSS Adoption Records Specialist in the VDSS Adoption Unit.

6.2.9.3 Supervision of the placement

The circuit court reviews the home study when it is satisfied that all the requirements have been complied with, the petitioner is financially able to maintain the child, is morally suitable and a proper person to care for and train the child, the child is suitable for adoption by the petitioner, and the best interests of the child will be met through adoption; the court must enter an interlocutory order.

An interlocutory order declares that subject to the probationary period prior to the filing of the Final Order of Adoption that that the child must be for all purposes the child of the petitioner.

6.2.9.4 Make supervisory visits

The purpose of supervisory visits should be for regular and ongoing support, monitoring and counseling of the family, and to document the progress of the placement. Since the goal of these visits is to facilitate the integration of the child into the family, the number of visits should be determined by the special needs of the child and the family for a successful adoptive home.

The agency must make at least three visits to the child within a six-month period following the date the interlocutory order is entered ([§ 63.2-1212](#)).

- The visits must be in the presence of the child.
- One visit must be in the home of the petitioners with the child and both petitioners present unless one of the petitioners is no longer residing in the home.
- Visits must be scheduled at least 90 days elapse between the first and last visit.
- If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he or she desires to remain a party to the proceedings. The report to court must include the results of the contact.
- If the petitioners move from Virginia prior to completion of the three visits, the agency must request assistance from an agency in the new state of residence in completing the visits through the ICPC.
 - An Interstate Compact form (100a) is completed and forwarded to ICPC at the VDSS with a cover letter clearly stating the needed services and any collateral materials the out-of-state agency may need.
- After the entry of the interlocutory order, the court is the sender and no longer the agency ([§ 63.2-1240](#)).
 - Collateral material would include social and medical information on the child and birth parents and the home study on the adoptive

family. A copy of the interlocutory order is also included in the materials.

6.2.9.5 Report of Visitation

The purpose of the visits is to determine for the court whether the best interest of the child will be met by finalizing the adoption. At a minimum, the Report of Visitation must include a mutual assessment of the placement, the agency contacts, the adjustment of the child and family with the placement, and services the supervising child placement agency has provided or needs to be provided.

The questions specified in [§ 63.2-1238](#) must be answered:

- Whether the petitioners are financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child.
- What the physical and mental condition of the child is.
- Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what their attitude is toward the proposed adoption.
- Whether the parents have abandoned the child, or are morally unfit to have custody over him.
- The circumstances under which the child came to live, or will be living, in the home of the petitioners.
- Whether the child is a suitable child for adoption by the petitioner.
- What fees have been paid by the petitioners or in their behalf which have assisted them in obtaining the child.
- Relevant physical and mental history of the birth parents, if known.

The report should include:

- Interviews with:
 - Adoptive parents.
 - Child, if of the age to participate.

Child and Family Services Manual**F. Adoption**

- All biological/legal parents to determine their attitude, physical and mental health history, and background information.
- If an interview is not possible, contact should be made by mail or telephone, or through another agency.
- When a letter is sent to the parents of a child born out-of-wedlock, it must be sent by or certified mail.
 - The letter must be delivered to the addressee only and a return receipt requested.
- Contact with professional persons concerned with the case.
- Home visits
- Medical statements on the child and adoptive parents in non-relative cases.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation:

- The court and the VDSS Adoption Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.
- A report should be sent to the court with a request for additional time to complete the report. The request should include the reasons for the delay or inability to complete the investigation, and the period of time needed to complete the investigation.
- If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.
- If the petitioners move from Virginia before completion of the investigation, the agency requests assistance from the new state of residence through ICPC.
 - An Interstate Compact Form (100A) is completed and forwarded to the ICPC with a cover letter clearly stating the needed services and any collateral materials the out-of-state agency may need in completing their services.

- Collateral materials would include social and medical information on the child and birth parents and the home study on the adoptive family.

6.2.9.6 Prepare the Report of Visitation

Use the format for the home study required by [§ 63.2-1238](#) shown in the Forms section with the following changes:

- Title the report "Report of Visitation."
- Direct the report to the appropriate circuit court and the appropriate circuit court judge.
- Put the court chancery number and the Virginia adoption case number on the report if available.
- Cite the appropriate code section under which the agency was directed to do the report ([§§ 63.2-1208 B](#) and [63.2-1238](#)).
- Insert a section on consent after the section on separation from birth parents.
- State who consented to the adoption and the manner in which consent was executed.
- If applicable, state whose consent was not required or can be waived and why.
- The report must include the physical and mental history of birth parents, if it is known.

6.2.9.7 Distribute copies of the report

Send copies to:

- Original to the court with the Certificate of Service.
- VDSS Adoption Unit.
- Attorney.
 - If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition.

- A copy may be sent to the adoptive parents.

If a letter of opposition to the adoption is received from the biological parents, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the VDSS Adoption Unit with the copy of the report. A copy is kept in the agency's file.

- Keep one copy in agency's file until final action by the court.
- The agency should submit any additional information requested by the VDSS Adoption Unit.
- In those instances where an LDSS has provided services and the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee must be provided by the LDSS to the court prior to the entry of the final order ([§ 63.2-1248](#)).

6.2.9.8 Submit a Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a request for additional time to complete the investigation.

- Send the original to the court, a copy to the VDSS Adoption Unit, and a copy to the attorney. One copy is retained in the agency's file.
- Review the interlocutory order

6.2.9.9 What should be done following final disposition

A final disposition is the final action taken by the court in an adoption, which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person acquires a child other than by birth. A final order is not subject to attack after six months from the date it was entered and is final for all purposes ([§ 63.2-1213](#)).

6.2.9.10 Acknowledgment and disposition of case material

The agency must review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the VDSS Adoption Unit.

The agency should purge the record of duplicative material and send to the VDSS Adoption Unit for preservation original copies of all pertinent material that has not been sent (See [Section 3.10.2](#) for more information about sending the adoption file for preservation).

The agency may wish to work out a procedure with their circuit court whereby the circuit court will notify the juvenile and domestic relations court when the Final Order of Adoption is entered so that the juvenile and domestic relations court can remove the case from their docket.

6.2.10 Adoption recommended by birth parents, physicians, Virginia licensed attorneys, and clergymen

A designated adoption is an adoption where the birth parents or a person other than a CPA recommends the prospective adoptive placement of a child. Birth parents, physicians, licensed attorneys in Virginia, and clergymen may recommend prospective adoptive parents when they are familiar with such parent or child ([§ 63.2-1226](#)).

The birth parents can request the LDSS to accept custody of a child by signing a Permanent Entrustment Agreement or by petitioning the court to be relieved of their rights.

- When a CPA is requested to accept custody of a child for the purpose of placing the child with adoptive parents recommended by the birth parents) or a person other than someone recommended by a CPA, either the parental placement provisions or the agency provisions must apply to the adoption at the election of the birth parents ([§ 63.2-1226](#)).

The agency must:

- Provide information to the birth parents on the parental placement adoption procedures and the agency placement adoption procedures.
- Provide the birth parents with the opportunity to be counseled by a service worker.
- Provide the birth parents with the opportunity to be represented by independent legal counsel.
 - The documentation for the method chosen to provide these services should be kept with the child's record.

- The agency should determine if an approved home study has been completed on the prospective adoptive family.
 - If a home study has been completed, the agency should review the home study and determine whether it is in the best interest of the child.
 - If a home study has not been completed, a home study must be initiated accordingly:
 - When the birth parents elect the LDSS placement adoption procedures, the agency initiates a home study of the prospective adoptive parents.
 - When the birth parents elect the non-agency placement adoption procedures, the LCPA initiates a home study of the prospective adoptive parents.
 - If the prospective family lives out of state, the agency must use the ICPC procedures to obtain an approved home study from the other state.

6.3 Close relative adoptions

A close relative adoption must be an adoption by the child's adult relatives, including stepparents, stepbrothers, stepsisters, and all other adult relatives of the child by marriage or adoption.

Chapter 12 of the Code of Virginia §§ [63.2-1242.1](#) through [63.2-1242.3](#) provides guidance on the provisions for close relative adoptions in the Commonwealth.

If a petition is filed while the child is under 18 years of age and the child then turns 18 years of age, the petition will not become invalid because the child reaches 18 years of age prior to the entry of a Final Order of Adoption.

In a close relative placement, the court may accept a written consent signed under oath by the birth parents and notarized. The birth parent does not have to execute consent in court.

6.3.1 Close relative placement for a child who has been in the home less than two years

When a child who continuously resided in the home or has been in the continuous physical custody of a close relative for less than two years:

Child and Family Services Manual**F. Adoption**

- The adoption proceedings, including the court approval of the home study, must begin in the juvenile and domestic relations district court pursuant to the parental placement adoption provisions according to [§63.2-1232](#).

Exceptions to the parental placement adoption proceedings are:

- The birth parents' consent does not have to be executed in juvenile and domestic relations district court in the presence of the prospective adoptive parents.
- The simultaneous meeting specified in [§63.2-1231](#) is not required.
- No hearing is required for this proceeding.

The close relative may file in circuit court after the juvenile and domestic relations district court:

- Issues an order accepting the consents or otherwise deals with the birth parents rights.
- Appoints the close relative custodians of the child.

6.3.2 What is needed to file in circuit court

- When the home study is filed with the circuit court an Order of Reference, investigation, and Report of Investigation must not be made unless the circuit court in its discretion requires an investigation and Report of Investigation to be made.
- The circuit court may omit the probationary period and the interlocutory order and enter a Final Order of Adoption. The circuit court may waive appointment of a guardian ad litem (GAL) for the child who is subject to a close relative adoption ([§ 63.2-1242.2](#)).
- If the circuit court determines the need for an additional investigation, it must refer the matter to the CPA that completed the home study. The CPA must complete the report in the timeframe specified by the circuit court.
- No hearing is required in the juvenile and domestic relations court.

6.3.3 Close relative placement for a child who has been in the home two or more years

When a child who continuously resided in the home or has been in the continuous physical custody of a close relative for two years or more, the adoption proceeding of

the parental placement provisions must not apply and the adoption proceeding must begin in the circuit court according to [§ 63.2-1242.3](#).

The circuit court may waive appointment of a GAL for the child who is subject to a close relative adoption ([§ 63.2-1242.3](#)).

6.3.4 Finalizing the adoption

An Order of Reference, investigation, and Report of Investigation must not be made unless the circuit court in its discretion requires an investigation and Report of Investigation to be made.

The circuit court may omit the probationary period and the interlocutory order and enter a Final Order of Adoption.

In the event that the circuit court determines that there is a need for an investigation, it must be referred to the local director of the LDSS for an investigation and report.

6.3.5 Responsibilities of the agency

When the Order of Reference and the interlocutory order are omitted and a Final Order of Adoption is entered at the time the petition and consent are filed, the CPA has no responsibility in this type of adoption.

However, the circuit court may order a thorough investigation of the matter and report to be performed by the applicable agency and submitted to the court within a time frame determined by the circuit court. In this case, the agency has the responsibility to complete the investigation and report to the circuit court as required in [§ 63.2-1208](#).

6.3.5.1 Set up case records

A close relative adoption case record, where the circuit court has entered an Order of Reference and/or an interlocutory order, should contain the following documents:

- Service Application
 - When the Order of Reference and/or interlocutory order are received by the agency, the court order serves as the Service Application.
- All court orders.
- Report of Investigation/Home Study
- Report of Visitation

- All correspondence
- Narrative

6.3.5.2 Review the petition

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

The petition should be reviewed to verify the petition is filed in the locality the petitioner lives, in the locality the CPA that placed the child is located, in the locality the birth parent executed a consent pursuant to [§63.2-1233](#), or where the petitioners reside and the case has been referred to the proper agency ([§ 63.2-1201](#)).

The petition must be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).

6.3.5.3 Review the interlocutory order

In this type of close relative adoption case, the court may enter an interlocutory order after the investigation is completed, or omit the interlocutory order and enter a Final Order of Adoption.

If an interlocutory order is entered, the agency must review and acknowledge to the court receipt of the interlocutory order. A copy of the acknowledgment must be sent to the VDSS Adoption Unit.

6.3.5.4 Complete the investigation if ordered at the discretion of the circuit court

When the circuit court requires an investigation, the following areas must be addressed ([§§ 63.2-1208](#) and [63.2-1238](#)):

- Whether the petitioners are financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child.
- The physical and mental condition of the child.
- Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what their attitude is toward the proposed adoption.
- Whether the parents have abandoned the child or are morally unfit to have custody over him.

Child and Family Services Manual**F. Adoption**

- The circumstances under which the child came to live and is living in the home of the petitioners.
- Whether the child is a suitable child for adoption by the petitioners.
- What fees have been paid by the petitioners or in their behalf to persons or agencies which have assisted them in obtaining the child.

Ensure that the investigation required by [§ 63.2-1208](#) includes:

- Interviews with:
 - Adoptive parents.
 - Child, if of the age to participate.
 - All natural/legal parents to determine their attitude, physical and mental health history, and background information.
 - If an interview is not possible, contact should be made by mail or telephone, or through another agency.
 - When a letter is sent to the parents of a child born out-of-wedlock, it must be delivered to the addressee only and a return receipt requested
 - References must be contact in person, by mail, or telephone.
 - Professional persons concerned with the case.
- Visits to the adoptive home
- Information on the adoptive parents' income in order to determine the fee assessed

If unable to complete the investigation the court and subsequent report within 60 days or another time frame ordered by the court, the court and the VDSS Adoption Unit must be notified. The notification to the court should include a request for additional time to complete the investigation and include the reasons for the delay or inability to complete the investigation and subsequent report in the allotted period of time.

If the petitioners cannot be contacted in order to conduct the investigation, the agency must submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency should request the help of an out-of-state/country agency through ICPC.

- Send a copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for disposition. Do not send the petitioners a copy of the report.
- Keep a copy in agency's file until final disposition.
- If a letter of opposition to the adoption is received from the birth parents, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the VDSS Adoption Unit. A copy is kept in the agency's file.
- The agency should submit any additional information requested by the VDSS Adoption Unit.
- In those instances where an LDSS has provided services and the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee must be provided by the LDSS to the court prior to the entry of the final order ([§ 63.2-1248](#)).

6.3.5.5 Submit a Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after submitting the required report and no court action has been taken or the case is pending as a result of a recommendation for additional time to complete the investigation.

The original report must be sent to the court, a copy to the VDSS Adoption Unit, and a copy to the attorney. One copy is retained in the agency's file.

6.3.5.6 Conduct the supervisory visits

In a close relative adoption, the court at its discretion can omit the probationary period and an interlocutory order and enter a Final Order of Adoption. If the circuit court determines that there is a need for additional investigation and reports, the agency which completed the home study must complete the supervision and reports in the time designated by the court. The interlocutory order supervisory visits must be made in accordance with ([§ 63.2-1212](#)):

- The agency must make at least three visits to the child within a six-month period following the date the interlocutory order is entered.
- Visits must be scheduled so that no less than 90 days elapse between the first and last visit.
- The visits must be in the presence of the child. One visit must be in the home of the petitioners with the child and both petitioners present unless the petition was filed by a single parent or one of the petitioners is no longer residing in the home.
- If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to the court must include the results of the contact.
- If the petitioners move from Virginia prior to completion of the three visits, the agency must request the assistance of an agency in the new state of residence in completing the visits. This is done through ICPC.

6.3.5.7 Complete the Report of Visitation

The Report of Visitation is sent to the court within **15 days** of the last visit.

The format for the Report of Visitation must be that recommended by the VDSS Adoption Unit.

6.3.5.8 Distribute copies of the report

Send copies to:

- Original to the court with the Certificate of Service
- VDSS Adoption Unit
- Attorney
 - If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition.
 - Do not send a copy of the report to the petitioners.
- Agency keeps a copy in the agency's file until the final action by the court.

6.3.5.9 What should be done following final disposition

Final disposition is the final action taken by the court in an adoption, which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person acquires a child other than by birth.

After the expiration of six months from the date of entry of the Final Order of Adoption from which no appeal has been taken, the validity of the Final Order of Adoption must not be subject to attack for any reason including fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction ([§ 63.2-1216](#)).

6.3.5.10 Acknowledgment

The agency must review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the VDSS Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

6.3.5.11 Closing the case

The agency should purge the record of duplicate material and send to the VDSS Adoption Unit for preservation original copies of all pertinent material that has not been sent (See [Section 3.10.4](#) for more information about sending the adoption file for preservation).

6.3.6 Duties of the attorney

In this type of adoption, the attorney has primary responsibility for the work that should be done. The CPA should be aware of these responsibilities although it may have no responsibility to provide services in such cases.

The attorney:

- Files the petition for adoption ([§ 63.2-1201](#)).
 - The petition must be signed by the petitioner and the petitioner's attorney, if any.
 - If the petition seeks entry of a final order without referral for investigation, the petition must be under oath.
- Obtains required consents, which are to be filed with the petition for adoption. When the child has resided in the home of the prospective adoptive parents

Child and Family Services Manual

F. Adoption

continuously for at least two years, consent is executed in accordance with [§ 63.2-1202](#).

The consent must be in writing, signed by the birth parent under oath, and acknowledged by a notary public ([§ 63.2-1202](#)). Consent is from:

- The mother
- The legal father
 - The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.
 - If the mother is divorced and the child was born within ten (10) months of the divorce decree, the former husband is considered the legal father.
 - This presumption may be rebutted by sufficient evidence, satisfactory to the court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child. In this case, the consent of the mother's husband is not required.
- The birth father
 - The court may accept the written consent of the birth father who is not married to the birth mother of the child at the time of the child's conception or birth provided that the required identifying information is filed in writing with the court.
 - The written consent can be signed prior to the birth or must be executed after the birth of the child, must advise the birth father of his opportunity for legal counsel and must be presented to the court for acceptance.
 - The consent may waive further notice of the adoption proceedings.
- The child who is 14 years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent.

If consent cannot be obtained from at least one parent, the court must deny the petition and determine custody of the child pursuant to [§ 16.1-278.2](#) unless all parents are deceased ([§ 63.2-1233.3](#)).

If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent ([§ 63.2-1233 5](#)).

When the consent of one parent has been obtained, the consent of the other parent is not required:

- If the parent is deceased ([§ 63.2-1202](#));
- When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by the divorce decree or another order of a court ([§ 63.2-1202](#));
- When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not required if ([§ 63.2-1202](#));
- The birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable ([§ 63.2-1233 1a](#));
- The identity of the birth father is ascertainable and his whereabouts are known, he is given notice of the proceedings by registered or certified mail to his last known address and fails to object to the proceeding with twenty-one days of the mailing of the notice ([§ 63.2-1233 1a](#)); or
- The putative birth father named by the birth mother denies under oath and in writing paternity of the child ([§ 63.2-1203](#)).

When the consent of one parent has been obtained, the consent of the other parent may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable ([§ 63.2-1203](#)):

- **Fifteen days** after personal service of notice of the petition for adoption (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); or
- If personal service is unobtainable, **ten days** after the completion of the execution of an order of publication against the party or parties whose consent is required; or
- If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

No consent must be required from the birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor must the birth father be entitled to notice of any of the adoption proceedings ([§ 63.2-1233.7](#)).

- Prepares the appropriate orders.
 - In this type of placement, neither an Order of Reference ([§ 63.2-1238](#)) nor an interlocutory order ([§ 63.2-1210.4](#)) needs to be entered. In most cases, a final order is filed with the petition and consent.
- Assists the petitioners in obtaining a new birth certificate for the child.

Before entering a Final Order of Adoption, the court must require the preparation of a Report of Adoption form (VS-21) furnished by the state registrar of vital records (See [Section 3.11.1](#) for more information about the Report of Adoption form).

The report must:

- Include such facts as are necessary to locate and identify the original certificate of birth.
- Provide information necessary to establish a new certificate of birth.
- Identify the order of adoption and be certified by the clerk of court.

6.3.7 Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The clerk of court where the petition is filed sends a copy of the petition, Order of Reference, or interlocutory order and all exhibits to the LDSS. A copy is also sent to the Commissioner. The petition must be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

If, after considering evidence, the court finds that the valid consent of any person whose consent is required is withheld contrary to the best interests of the child or is unobtainable, the court may grant the petition without consent ([§ 63.2-1203](#)):

Child and Family Services Manual

F. Adoption

- **Fifteen (15) days** after personal service of notice of the petition on the party whose consent is required;
- If personal service is unobtainable, **ten (10) days** after the completion of the execution of an order of publication against the party whose consent is required; or
- If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.
- An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable must be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit ([§ 63.2-1203 A](#)).
- The court may omit the Order of Reference and the interlocutory order and enter a Final Order of Adoption.
- In those parental placements where an interlocutory order is entered, visitations will be required ([§ 63.2-1212 A](#)), and the agency is required to furnish a report of the finding of the visitation. The court may take any action it finds appropriate if the report is not submitted in the specified time. The court may:
 - Enter a Final Order of Adoption;
 - Enter an interlocutory order;
 - Deny the petition;
 - If the court denies the petition and the child is without proper care, the court may appoint a guardian for the child or commit the child to a custodial agency ([§ 63.2-1209](#)).
 - Dismiss the petition;
 - Continue the proceeding; or
 - Schedule a hearing.

When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court ([§ 63.2-1214](#)).

The clerk of court sends to the agency and to the Commissioner a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards

all reports submitted with the final order to the Commissioner for preservation ([§ 63.2-1213](#)).

When services have been provided by an LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

The court may not enter a Final Order of Adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics, a completed Report of Adoption (VS-21), and a completed Application for a Certified Copy of a Birth Record (VS-6), with a check from the petitioners for the required fee.

6.3.8 Duties of the Commissioner

The VDSS Adoption Unit and ICPC are the offices which carry out the duties of the Commissioner in adoptions. These duties include:

- Establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family ([§ 63.2-1246](#)).
- Monitoring and evaluating adoption cases and submitting reports to courts ([§§ 63.2-1208 B](#) and [63.2-1212](#)).
- Arranging, through ICPC, for investigation and supervisory visits to be made when the petitioners move prior to completing the adoption.

6.4 Stepparent Adoptions

A stepparent adoption is when the spouse or former spouse of the birth or adoptive parent is adopting the child. The regulations governing parental placement adoptions are not applicable in stepparent adoptions because no placement occurs in a stepparent adoption. In a stepparent adoption, consent has either been obtained or is not required in certain circumstances as outlined in this section. However, when a former spouse is adopting, the consent of the birth parent is required ([§ 63.2-1201.1](#)).

Stepparent adoption has been expanded to allow a person who is not the child's stepparent but has a legitimate interest in the child to file a joint petition with the child's birth parent or parent by adoption in the circuit court.

A person with a legitimate interest is defined in § [20.124.1](#) of the Code of Virginia, and includes, but is not limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives, and family members. It does not include any person whose rights have been terminated by court order, either voluntarily or involuntarily, or whose interest in the child originates from or through a person whose parental rights have been terminated by the court, either voluntarily or involuntarily.

If the birth parent or parent by adoption refuses to join in filing the petition, to show they consent to the adoption, the court must determine whether withholding consent is contrary to the child's well-being. If the court determines this to be the case, the adoption will be ordered as well as any petition filed for change of the child's name.

Chapter 12 of the Code of Virginia §§ [63.2-1241](#) through [63.2-1242](#) provides guidance on stepparent adoptions in the Commonwealth.

When a stepparent files a petition for adoption in circuit court, a national criminal background check must be completed on the stepparent at his/her cost (§ [19.2-392.02 H](#)). The court must consider the results of the national background check to determine whether an investigation is necessary (§ [63.2-1242](#)).

The investigation must be undertaken only if the court determines that there should be an investigation before a Final Order of Adoption is entered (§ [63.2-1242](#)). If the court makes such a determination, the agency becomes involved when the adoption petition is filed and the circuit court enters the Order of Reference.

6.4.1 Case opening

A case is opened when a petition for adoption is received from the circuit court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

The steps for opening a case include the following:

6.4.1.1 Set up a case record

The case record should contain the following documents, if applicable:

- All court orders.
- All required documentation.

- Report of Investigation.
- All correspondence.
- Narrative.

If two children are on the same petition, only one case is opened.

6.4.2 Review the petition and Order of Reference

The petition for adoption is usually accompanied by an Order of Reference, which is an order from the court directing an agency to make an investigation and report.

The petition and Order of Reference should be reviewed to ensure the petition is filed in the court having jurisdiction 1) where the petitioners reside, or 2) in the locality where the birth parents executed consent occurred ([§ 63.2-1201](#)) and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel of record, if any ([§ 63.2-1201](#)).

The petition must ask permission to adopt a minor child who is not legally the petitioner's by birth.

If the agency receives an Order of Reference in either of the following cases, the agency should contact ICPC to request assistance with completion of the investigation.

- The petitioners are legal residents of Virginia but are living outside the state; or
- The petitioners move from the state after the petition is filed.

In some stepparent adoptions, the court has the option of dispensing with the investigation and entering a final order. If an Order of Reference is entered in these cases, the attorney should be contacted by the CPA to make sure he is aware the court may enter a final order without an investigation.

If the Order of Reference is not rescinded, the agency is responsible for making the investigation and report.

If the petitioners move from the agency's jurisdiction but within Virginia or if it appears to be in the best interest of the child for another agency to make the investigation, the agency should request that the court enter an amended order referring the investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency may be requested in writing by the agency ordered to make the investigation.

6.4.2.1 Respond to inquiries made during the investigation

If an investigation is required by the court, the following items from the Code of Virginia §§ [63.2-1208.D](#) and [63.2-1242](#) are to be addressed:

- Whether the petitioners are financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child. A child protective service check and references are not needed.
- The physical and mental condition of the child. Medical reports are not needed.
- Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what their attitude is toward the proposed adoption.
- Whether the parents have abandoned the child or are morally unfit to have custody over him.
- The circumstances under which the child came to live and is in the physical custody the petitioner.
- Whether the child is a suitable child for adoption by the petitioner.
- What fees have been paid by the petitioner or in their behalf to persons or agencies which have assisted them in obtaining the child.
- The report must include the physical and mental history of birth parents, if it is known.

A statement in the report of the efforts made to encourage birth parents to provide information related to all reasonably ascertainable background, medical, and psychological records of the child to the prospective adoptive parents. A list of reports given to the prospective adoptive parents must also be submitted with the Report of Investigation.

6.4.2.2 Perform the investigation

The investigation includes interviews with:

- Adoptive parents.
- Child, if of the age to participate.

- Parents, to include the birth mother, the presumed father, acknowledged father, adjudicated father, and/or putative father whose identity is known to determine their attitude, physical and mental health history, and background information.

If a face-to-face interview is not possible, contact should be made by mail, telephone, or through another agency.

- When a letter is sent to the parents of a child born out of wedlock, it must be sent by certified mail. The letter must be delivered to the addressee only and a return receipt requested.
- Contact professional persons concerned with the case.

The investigation also includes:

- Home visits to describe for the court the physical environment in which the child will live, and to observe interactions between the parent and child in a familiar environment.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation, the court and the VDSS Adoption Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days ([§ 63.2-1208 B](#)).

A report should be sent to the court with a request for additional time to complete the investigation. The report should include the reasons for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

If the petitioners cannot be contacted or located, the agency should submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency should request the assistance of an out-of-state agency, through ICPC in completing the investigation.

6.4.2.3 Prepare the Report of Investigation

The format of the report should be that recommended by the VDSS Adoption Unit.

For purposes of confidentiality, the report must not contain identifying information on the legal/birth parent who is not a party to the petition. The report should contain a recommendation as to the action to be taken by the court.

6.4.2.4 Distribute copies of the report

Send copies to:

- Original to the court with the Certificate of Service showing that a copy of report was sent to the VDSS Adoption Unit ([§ 63.2-1208](#)).
- VDSS Adoption Unit with a completed Commissioner's Confidential Report.
- Attorney.
 - If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for disposition.
- Keep a copy in the agency's file until final disposition.

If a letter of opposition to the adoption is received from the legal/birth parent, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the VDSS Adoption Unit with the copy of the report. A copy is kept in the agency's file.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by LDSS which completed the investigation and court report, to provide proof of payment of the fee.

6.4.2.5 Submit a Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for additional time to complete the report.

6.4.2.6 What should be done following final disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person acquires a child other than by birth. A final order is not subject to attack for any reason after six months from the date it is entered and is final for all purposes ([§ 63.2-1216](#)).

6.4.2.7 Acknowledgment and disposition of case material

The agency must review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the VDSS Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

The agency should purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the VDSS Adoption Unit for preservation.

6.4.2.8 Case closing

The case should be closed when the Final Order of Adoption is received.

6.4.3 Duties of the attorney

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating stepparent adoptions. Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- Files the petition, which must be signed by the petitioner and counsel of record ([§ 63.2-1201](#)).
- Obtains required consents.
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the child.

6.4.4 Duties of the Commissioner

The VDSS Adoption Unit carries out the duties of the Commissioner in stepparent adoptions. These duties include:

- Establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family.
- Monitoring adoption cases and submitting reports to courts when necessary.

6.4.5 Duties of the circuit court

The duties of the circuit court do not require action by the agency but agencies should be aware of the responsibility of the court in facilitating stepparent adoptions.

If the petition is executed under oath and in writing, the court may, without an investigation, enter a final order in accordance with code [§ 63.2-1213](#) when:

- A natural parent, whose spouse has died, marries again, and the surviving parent and new spouse petition for adoption ([§ 63.2-1241 A](#)); or
- A legitimate child of a divorced parent is being adopted by a stepparent and the other natural parent has consented to the adoption ([§ 63.2-1241 B](#)); or
- A mother of an illegitimate infant marries, and her husband desires to adopt, provided ([§ 63.2-1241 C](#)):
 - The birth father consents;
 - The mother executes an affidavit that the identity of the father is not known or not reasonably ascertainable;
 - The putative father denies paternity under oath and in writing, according to [§ 63.2-1202](#);
 - The child is 14 years of age and has lived in the petitioners' home for at least five years;
 - The alleged father is deceased;
 - The non-custodial birth parent executes a denial of paternity under oath and in writing; or
 - The non-custodial birthparent:

Child and Family Services Manual

F. Adoption

- Is not an acknowledged father.
- Is not adjudicated father.
- Is not a presumed father.
- Is a putative father who has not registered with the Virginia Birth Father Registry and if his identity is reasonably ascertainable, he has been provided notice to register with the [Virginia Birth Father Registry](#) and has failed to register in a timely manner.
- A single person who adopted a child marries and files a petition with his or her spouse ([§ 63.2-1241 D](#)).

The investigation and report must be undertaken only if the court in its discretion determines that there should be an investigation before a Final Order of Adoption is entered ([§ 63.2-1242](#)). If the court makes such a determination, it must refer the matter to the local director of social services.

The clerk of circuit court where the petition is filed sends a copy of the petition, Order of Reference, and all exhibits to the director of the LDSS and to the VDSS Adoption Unit. The petition must be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

The court will expeditiously consider the merits of the petition when the report is received ([§§ 63.2-1208 A](#) and [63.2-1242.2](#)).

The court may take any action it finds appropriate if the report is not submitted in the specified time ([§§ 63.2-1242](#) and [63.2-1208 B](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the proceeding;
- Schedule a hearing; or
- Enter an interlocutory order. In stepparent adoptions, the interlocutory order is almost always waived by the court in accordance with [§ 63.2-1210 1](#)).

The court may dispense with parental consent if the court finds that consent is withheld contrary to the best interest of the child or is unobtainable ([§ 63.2-1203 A](#)) provided that:

- Twenty-one days have elapsed since personal notice of the petition was served on the persons whose consent is required (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received); or
- If personal service is unobtainable, ten days have elapsed after the completion of the execution of an order of publication against the persons whose consent is required; or
- The judge certifies on the record that the identity of the person whose consent is required is unobtainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable is sufficient evidence provided that there is no evidence before the court to refute the affidavit.

The court does not require consent when:

- The birth father is convicted of:
 - Rape;
 - Carnal knowledge of a child between the ages of 13 and 15; or
 - Adultery or fornication with his daughter or granddaughter, or his mother; and
 - The child was conceived from this action ([§ 18.2-366 B](#)).
- A parent is deceased ([§ 63.2-1203 B](#));
- The parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of one parent have been terminated by the divorce decree or another order of the court ([§ 63.2-1202](#));
- A birth father denies under oath and in writing the paternity of the child. The denial cannot be withdrawn after ten days. Once the child is ten days old, any denial of paternity is final and constitutes a waiver of all rights,
- The parent has not visited or contacted the child for a period of six months without any justification ([§ 63.2-1202](#));
- A child born outside wedlock ([§ 63.2-1202](#));

- The father's identity is unknown;
- The putative father consents to the termination of all of his parental rights before the child is born ([§ 63.2-1202](#));
- The father is given notice of the adoption proceedings by certified or registered mail at his last known address and fails to object within 15 days of the date the notice was mailed ([§ 63.2-1233 1c](#)); or
- Once proper notice has been given and the non-consenting parent fails to appear in court either in person or by counsel the non-consenting parent waives any objection and right to consent to the adoption ([§ 63.2-1202](#)).

A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required ([§ 63.2-1203 3](#)).

When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.

The clerk of court sends to the agency and to the VDSS Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the VDSS Adoption Unit for preservation.

When services have been provided by a LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

The court may not enter a Final Order of Adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a completed Report of Adoption, VS-21, and a completed application for a certified copy of a birth record, VS-6, with a check for the required fee ([§ 32.1-262](#)).

6.5 Adult adoptions

An adult adoption is the adoption of any person who is 18 years of age or older at the time that the adoption petition is filed.

Chapter 12 of the Code of Virginia §§ [63.2-1243](#) through [63.2-1244](#) provides guidance on adult adoptions in the Commonwealth.

6.5.1 Specifics for Adult Adoption

The circuit court may, without an investigation or supervisory period, enter a final order in the adoption of an adult if consent has been obtained from the person to be adopted, if the person to be adopted is:

- A stepchild parented by the petitioner at least three months;
- A child who is adopted by a close relative as defined in § [63.2-1242.1](#) as grandparent, great-grand parent, adult nephew or niece, adult sibling, adult uncle or aunt, or adult great uncle or great aunt;
- A birth child; or
- Any adult who has resided in the home at least three months before age 18.

The Circuit Court *may, at its discretion and based on good cause, eliminate the requirement for a Report of Investigation* when the petition for adoption is for a person 18 years of age or older when there is no relationship between the adoptee and the petitioner (§ [63.2-1244](#)).

- The person to be adopted must be at least 15 years younger than the petitioner.
- The petitioner and the person to be adopted must have known each other for at least one year prior to the filing of the petition for adoption.

The Circuit Court may also, in its discretion, require an investigation in any adult adoption.

6.5.2 Responsibilities of the agency in adult adoption

When the circuit court requires an investigation, the agency must:

6.5.2.1 Set up a case record

A case record should contain the following documentation:

- Service Application (court order).
- All court documents.
- Report of Investigation.
- All correspondence.
- Narrative.

6.5.2.2 Review the petition and Order of Reference

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with an (adult) child.

The Order of Reference is an order from the court directing an agency to make an investigation and report.

The petition and Order of Reference should be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioners reside and the case has been referred to the proper agency. The petition must be signed by the petitioner and by the counsel, if any ([§ 63.2-1201](#)).

If an Order of Reference is entered in one of the situations where an investigation is not required, the attorney should be contacted to make certain that he is aware the court may enter a final order without investigation. If the Order of Reference is not rescinded, the agency is responsible for making the investigation and report.

If the petitioners move from the agency's jurisdiction but within Virginia or if it appears to be in the best interest of the person being adopted for another agency to make the investigation:

- The agency requests that the court enter an amended order referring the investigation the agency in the location where the petitioner has taken up new residence.
- If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.
- The Order of Reference must be acknowledged to the court with a copy to the VDSS Adoption Unit. The acknowledgement must show the date of receipt of the order and the name of the agency ([§ 63.2-1208](#)).

6.5.2.3 Make inquiries during the investigation

In those cases in which an investigation must be made, the report to the court must be made within 60 days after the copy of the petition is forwarded ([§§ 63.2-1243](#) and [63.2-1208 B](#)).

The Code requires the following questions be answered ([§ 63.2-1244](#)):

- Whether the petitioners are financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the person to be adopted.
- What the physical and mental condition of the person to be adopted is.
- Why the birth parent (if applicable) of the person to be adopted desire to be relieved of the responsibility for the custody, care, and maintenance for the person to be adopted and what their attitude is toward the proposed adoption.
- Whether the parents (if applicable) have abandoned the person to be adopted or are morally unfit to have custody over him.
- The circumstances under which the person to be adopted came to live and is living in the home of the petitioners.
- What fees have been paid by the petitioners or in their behalf, if appropriate.
- Relevant physical and mental history of the birth parents, if known to the person making the report.
 - An investigation is not necessary to report the physical and mental history of the birth parents.
 - This information is reported only if it is known to the agency.

6.5.2.4 Perform the investigation

The investigation includes:

- Interviews with:
 - Adoptive parents.
 - The person being adopted.

Child and Family Services Manual**F. Adoption**

- References - contact in person, by mail, or telephone.
- Professional persons involved with either the petitioners or person to be adopted.
- A home visit.
- Medical statements on the adoptee and adoptive parents in non-relative cases.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation:

- The court and the VDSS Adoption Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.
- A report must be sent to the court requesting additional time to complete the investigation. The report must include the reasons for the delay or inability to complete the investigation and the period of time needed to complete the investigation.
- If the petitioners cannot be contacted or located to complete the investigation, the agency is to submit a report to the court and recommend the petition be dismissed.

6.5.2.5 Prepare the Report of Investigation

The format of the report must be that recommended by the VDSS Adoption Unit.

For purposes of confidentiality, the report must not contain identifying information on the biological family.

- The report must contain a recommendation as to the action to be taken by the court ([§§ 63.2-1208 C](#) and [63.2-1244](#)).

6.5.2.6 Distribute copies of the report

- Send original to the court with Certificate of Service showing copy of report was sent to the VDSS Adoption Unit.
- Send one copy to the VDSS Adoption Unit with the completed Commissioner's Confidential Report.

- Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for disposition. Do not send the petitioners a copy of the report.
- Keep a copy in the agency's file until final disposition.

The agency should submit any additional information requested by the VDSS Adoption Unit. In those instances where the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid.

A receipt must be provided to the court by the LDSS which completed the investigation and court report to provide proof of payment of the fee ([§ 63.2-1248](#)).

6.5.2.7 Submit a Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of an extension for additional time to complete the investigation.

Send the original to the court, a copy to the VDSS Adoption Unit, and a copy to the attorney. One copy is retained in the agency's file.

6.5.2.8 What must be done following entry of an interlocutory order, if the court in its discretion decides to enter the order

6.5.2.8.1 Conduct supervisory visits

The agency must make at least three visits within a six-month period following the date the interlocutory order is entered ([§ 63.2-1212](#)).

- The visits must be in the presence of the adopted person.
- One visit must be in the home of the petitioners with the adoptive person and both petitioners present unless one of the petitioners is no longer residing in the home.
- Visits must be scheduled so that at least 90 days elapsed between the first and last visit.

If one of the petitioners is no longer living in the home, the agency should contact that petitioner to determine if he or she desires to remain a party to the proceedings. The report to court must include the results of the contact.

If the petitioners move from Virginia prior to completion of three visits, the agency should request assistance from an agency in the new state of residence in completing the visits.

Since this type of adoption does not involve the placement of a child across state lines, the requirements of ICPC does not apply.

6.5.3 Report of Visitation

The Report of Visitation is sent to the court **within 15 days** of the last visit.

The format for the Report of Visitation should be that recommended by the VDSS Adoption Unit.

6.5.4 Distribute copies of the report

- Send original to the court with Certificate of Service.
- Send one copy to the VDSS Adoption Unit.
- Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioners a copy of the report.
- Keep one copy in agency's file until final action by the court.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where an LDSS has provided services and the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid.

Proof of payment of the fee must be provided by the LDSS to the court prior to the entry of the final order ([§ 63.2-1248](#)).

6.5.5 What should be done following final disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the adult acquires parents other than his natural parents and a person acquires a child other than by birth. A final

order is not subject to attack after six months from the date it was entered and is final for all purposes ([§ 63.2-1216](#)).

6.5.5.1 Acknowledgement and disposition of case material

The agency should review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the acknowledgement should be sent to the VDSS Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

The agency should purge the record of duplicate material and send to the VDSS Adoption Unit for preservation original copies of all pertinent material that has not been sent.

6.5.5.2 Close the case

The case should be closed when the Final Order of Adoption is received.

6.5.6 Duties of the attorney in an adult adoption

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating an adult adoption.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- Files the petition which must be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).
- Obtains required consents (in an adult adoption, only the consent of the person to be adopted is required) ([§ 63.2-1243 a](#)).
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the person being adopted.

6.5.7 Duties of the court

The CPA should be aware of these responsibilities of the court although it will have limited responsibility for providing services in these cases unless requested by the court.

Child and Family Services Manual**F. Adoption**

The investigations and visitations must not be required unless the court, in its discretion, so requires ([§ 63.2-1244](#)).

The clerk of court where the petition is filed sends a copy of the petition, Order of Reference, and all exhibits to the director of the LDSS and to the Commissioner. The petition must be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).

The circuit court must expeditiously consider the merits of the petition upon receiving the Report of Investigations ([§ 63.2-1208](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the proceeding;
- Schedule a hearing; or
- Enter an interlocutory order (an interlocutory order is not required in an adult adoption and is seldom entered by the court).

When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court ([§ 63.2-1212](#)).

The clerk of court sends to the agency and to the Commissioner a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk of court forwards all reports submitted with the final order to the Commissioner for preservation. ([§ 63.2-1213](#))

If the petition is executed under oath, the court may, without an investigation, enter a final order in the adoption of an adult if the person to be adopted is ([§ 63.2-1244](#)):

- A stepchild parented by the petitioner at least three months;
- A child adopted by a close relative as defined as a grandparent, great-grandparent, an adult nephew or niece, adult sibling, adult uncle or aunt, or adult great uncle or great adult who has lived in the home at least three months;
- A birth child; or
- Any adult who has resided in the home at least three months before age 18.

Child and Family Services Manual**F. Adoption**

When services have been provided by an LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

The court may not enter a Final Order of Adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate ([§ 63.2-1248](#)).

After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a copy of the Final Order of Adoption, which incorporates a change of name.

6.5.8 Duties of the Commissioner

The VDSS Adoption Unit is the office which carries out the duties of the Commissioner in adoptions. These duties include:

- Establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family ([§ 63.2-1246](#)).
- Monitoring and evaluating adoption cases and submitting reports to courts ([§ 63.2-1244](#)).

6.6 Intercountry adoptions

An inter-country adoption is the placement into Virginia of a child already adopted in a foreign country or placement into Virginia of a child from a foreign country for the purpose of adoption. In most inter-country adoptions, the adoptive parents are encouraged to re-adopt in Virginia. Re-adoption, however, is not required to obtain a new birth certificate.

6.6.1 Pre-adoptive requirements

Prior to bringing a foreign born child into Virginia, the prospective adoptive parents should meet Virginia's pre-adoptive requirements as well as certain requirements of the Department of Immigrations. Families requesting information on Virginia's pre-adoptive requirements and requirements of the Department of Immigrations should be referred to the [Inter-Country Adoption Specialist](#).

An IR-3 visa is issued when a full and final adoption is completed abroad. It requires that the adoptive parents physically see the child prior to or during the adoption

proceedings. Children with this visa automatically acquire citizenship if they enter the United States prior to their 18th birthday. If they are under 18 years old, they are automatically U.S. citizens upon admission to the United States and they reside with their parents in the United States.

An IH-3 visa is issued for children with full and final adoptions from a Hague Convention Country. Children with this visa automatically acquire citizenship if they have entered the United States prior to their 18th birthday, if they are under 18 years old, they are automatically United States citizens upon admission to the United States and they reside with their parents in the United States.

When a child enters the country with either an IR-3 or IH-3 visa as issued by the United States Citizenship and Immigration Services, the adoptive parents must not be required to readopt the child in Virginia.

It is recommended for a child adopted in a foreign country that re-adoption in the state of Virginia be considered to obtain a Virginia birth certificate, this will assist in establishing a preserved adoption file in the state of Virginia.

6.6.2 Adoptive home study

In most inter-country adoptions, the family will obtain an adoptive home study from a private agency. In these cases, the private agency that completed the home study will be responsible for the investigation and supervision required to obtain a Final Order of Adoption in Virginia.

6.6.3 Responsibilities of the LDSS in inter-country adoptions

There may be times when no Virginia agency was involved in assisting the family with pre-adoptive requirements. In these rare cases, the circuit court will refer the matter for investigation to the LDSS in the locality where the petitioners reside.

6.6.3.1 Open the case

A case is opened when a petition for adoption is received from the circuit court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

6.6.3.1.1 Set up a case record

The case record should contain the following documents, if applicable:

- All court orders.
- All required documentation.

- Report of Investigation.
- All correspondence.
- Narrative.

If two children are on the same petition, only one case is needed.

6.6.3.2 Review the petition and Order of Reference

The petition for adoption is usually accompanied by an Order of Reference, which is an order from the court directing an agency to make an investigation and report.

The petition and Order of Reference should be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioners reside and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel of record, if any ([§ 63.2-1201](#)).

For a child born in another country, an affidavit by a representative of the child-placing agency that a birth certificate number is not available may be substituted for verification by a registrar of vital statistics for that country.

If the petitioners move from the agency's jurisdiction but within Virginia or it appears to be in the best interest of the child for another agency to make the investigation, the agency is to request that the court enter an amended order referring the investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested in writing by the agency ordered to make the investigation.

The Order of Reference must be acknowledged to the court with a copy to the VDSS Adoption Unit. The acknowledgment should show the date of receipt of the order and the name of the agency.

6.6.3.3 Perform the investigation

The investigation includes:

- Interviews with:
 - Adoptive parents.
 - Child, if of the age to participate.

Child and Family Services Manual**F. Adoption**

- Home visits to describe for the court the physical environment in which the child will live, and to observe interactions between the parent and child in a familiar environment.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation:

- The court and the VDSS Adoption Unit should be notified if the investigation and report are delayed and cannot be completed within 60 days.
- A report should be sent to the court requesting additional time to complete the investigation. The report should include the reasons for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

If the petitioners cannot be contacted or located, to complete the investigation, the agency is to submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency requests the assistance of an out-of-state agency in completing the investigation. All requests should be forwarded to ICPC.

6.6.3.4 Prepare the Report of Investigation

The format of the report should be that recommended by the VDSS Adoption Unit.

The report must contain a recommendation as to the action to be taken by the court.

6.6.3.5 Distribute copies of the report

- Send the original to the court with the Certificate of Service showing that a copy of report was sent to the VDSS Adoption Unit.
- Send one copy to the VDSS Adoption Unit with the completed Commissioner's Confidential Report.
- Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for disposition.

- Keep a copy in agency's file until final disposition.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by the LDSS which completed the investigation and court report to provide proof of payment of the fee.

6.6.3.6 Submit a Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of additional time granted for completion of the investigation.

6.6.3.7 What should be done following final disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person acquires a child other than by birth. A final order is not subject to attack for any reason after six months from the date it is entered and is final for all purposes ([§ 63.2-1216](#)).

6.6.3.8 Acknowledgement and disposition of case material

The agency must review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the VDSS Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

The agency should purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the VDSS Adoption Unit for preservation.

6.6.3.9 Close the case

The case should be closed when the Final Order of Adoption is received.

6.6.4 Duties of the attorney

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating intercountry adoptions. Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court.

The attorney:

- Files the petition, which must be signed by the petitioner and counsel of record ([§ 63.2-1201](#)).
- Obtains required consents.
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the child.

6.6.5 Duties of the Commissioner

The VDSS Adoption Unit carries out the duties of the Commissioner in adoptions. These duties include:

- Establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family.
- Monitoring adoption cases and submitting reports to courts when necessary.

6.6.6 Duties of the circuit court

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The petition and all exhibits must be forwarded to the CPA which completed the home study or provided supervision. If no Virginia agency provided such services, the petition and all exhibits must be forwarded to the local director of social services in the

Child and Family Services Manual**F. Adoption**

locality where the adoptive family resides, or resided at the time of filing the petition, or had legal residence at the time of the filing of the petition.

The clerk of circuit court where the petition is filed sends a copy of the petition, Order of Reference, and all exhibits to the local director of the department of social services and to the VDSS Adoption Unit. The petition must be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

The circuit court must expeditiously consider the merits of the petition upon receipt of the report ([§ 63.2-1208](#)).

The court may take any action it finds appropriate ([§ 63.2-1208 B](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the proceeding; or
- Schedule a hearing.

The court may dispense with entry of the interlocutory order when ([§ 63.2-1210](#)):

- The child has been legally adopted according to the laws of a foreign country with which the United States has diplomatic relations ([§ 63.2-1210 5](#)):
 - If the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper.
 - The child has been in the physical custody of the petitioners for:
 - At least one year immediately prior to the filing of the petition.
 - A representative of a child-placing agency has visited the petitioner and child at least once in the six months immediately preceding the filing of the petition or during its investigation; or
 - The child has been in the physical custody of the petitioners for at least six months immediately prior to the filing of the petition;
 - Has been visited by a representative of a child-placing agency or the LDSS three times within such six-month period with no fewer than 90 days between the first and last visits.

Child and Family Services Manual

F. Adoption

- The last visit has occurred within six months immediately prior to the filing of the petition.
- The child was placed into Virginia from a foreign country in accordance with [§ 63.2-1104](#), and if ([§ 63.2-1210.6](#)):
 - The child has been in the physical custody of the petitioner for at least six months immediately prior to the filing of the petition.
 - Has been visited by a representative of a LCPA or the LDSS three times within such six-month period with no fewer than 90 days between the first and last visits.
 - The last visit has occurred within six months immediately prior to the filing of the petition. The circuit court may, in cases of an international placement, omit the requirement that three visits be made within a six-month period.

When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.

The clerk of court sends to the agency and to the VDSS Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the VDSS Adoption Unit for preservation.

When services have been provided by an LDSS, the court must assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court must not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

The court may not enter a Final Order of Adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics, a completed Report of Adoption, VS-21, and a completed application for a certified copy of a birth record, VS-6, with a check for the required fee ([§ 32.1-262](#)).