

SECTION X

OPEN ADOPTION

Openness will be based on the child's best interest. Details of the child's degree of openness is only determined after the child is free for adoption; although assessment of what is best for the child can begin earlier.

The prospective adoptive parent(s) and the birth parent(s) of a prospective adoptee may enter into an agreement regarding communication or contact after the adoption between the prospective adoptee and his/her birth parent(s). The Department will have input into the openness agreement. See definitions, Adoption with Openness, Section II in this Guidebook.

Exchange of Information

Adoption with Exchange-of-Information is between the prospective adoptive parent(s) and biological parent(s). The biological parent may contract with the Department and adoptive parents for information about the child obtained through the adoptive family.

The Exchange-of-Information Contract is a two-year, renewable obligation voluntarily agreed to and signed by both the adoptive and biological parent(s) and the Department. The best interest of the child will determine whether information is exchanged.

The contract should include but not be limited to:

- the nature of information to be shared;
- the agreement of the biological parent(s) and adoptive parents to keep the Department informed of any changes of address or phone number;
- the provision for communication by the biological parent(s) indirectly through the Department or directly to the adoptive parent(s).

The nature of the information which is promised will be specified in the Exchange-of-Information contract. This may include, but not be limited to, letters by the adoptive parent(s) providing information regarding the child's development or photographs of the child at specified intervals.

When, after finalization of the adoption, it is determined by the Department, in consultation with the adoptive parent(s), that certain or all exchanges of information are no longer in the best interest of the child, the Department may enter into an agreement with the biological parent(s) to alter the original contract made between the Department the adoptive parents, and the biological parents.

There are two types of open adoption agreements: non-court approved and court approved. Both are described below:

Non-Legal Agreement

This type of agreement may be between the prospective adoptive parent(s) and the birth parent(s) or any birth relative of the child. An agreement may be made between adoptive families of siblings who were adopted. The court is not involved but a written contract with the terms of contact and communication is signed by both families. This contract is not legally binding. The Department should be involved and should retain a copy for the records. An agreement may include changes of address and a method for maintaining contact.

Legally Binding (Court Ordered) Agreement

The birth and prospective adoptive parents agree to terms of contact or communication or both by way of a signed written agreement presented to the county or juvenile court where the adoption is finalized. That court may enter an order approving the agreement for openness if it determines it would be in the best interest of the prospective adoptee. The Department and the guardian ad litem will make recommendations regarding the agreement. The signed agreement becomes a legally binding contract. A contract approved by the court may only be done with the birth parents and not extended family.

Statutory Reference: Neb. Rev. Stat. 43-156 and 43-146 et. seq.