

What are the differences between Adoption and Guardianship?

ADOPTION

GUARDIANSHIP

| Goal | ADOPTION | GUARDIANSHIP |
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| Relationship with birth parents | The adoptive parents have the right to determine if the child will have any relationship with the birth parents. All ties with the birth parents are severed. | The birth parents can petition the court to have visitation or have the child returned to them |
| Rights of the caregiver | All decisions are made by the adoptive parents | Guardian will have the right to make decisions regarding school, health care and other major life decisions. If TPR has not occurred the birth parent has a right to consent to adoption |
| Legal documentation | The court decree finalizes the adoption | The court order granting legal guardianship |
| Eligibility for other services | Adoptive parents may contact specialized agencies in community. If receiving subsidy, may contact local adoption specialist for assistance | Guardian may contact specialized agencies in community. If receiving subsidy may contact permanency specialist for assistance |
| Duration of subsidy | If eligible, the adoption subsidy lasts until the child is 21 years of age depending on when adoption was finalized | If eligible, the guardianship subsidy may last until the child is 21 years of age depending on the age of the child when the guardianship was finalized. If the guardianship was finalized for a child 16 years or younger then they will receive a subsidy until they are 18. If the guardianship is finalized for a child 16 years or older then the subsidy may be extended until they are 21 if they meet the eligibility requirements. |
| Consent of the child | A child who is 12 years old or older are consulted regarding the adoption | A child who is 12 years old or older are consulted regarding the guardianship |
| Eligibility of Medicaid | IV-E eligible children and siblings would receive coverage. Non IV-E eligible children, instruct the adoptive parent to apply for coverage at local county office. | IV-E eligible children and siblings would receive coverage. Non IV-E eligible children, instruct the guardian to apply for coverage at local county office. |
| Annual Review | The adoptive parents are not required to submit an annual report. | If receiving subsidy, the guardian must submit an annual report in order to continue receiving payments. |
| Amount of Subsidy | If eligible, the adoption subsidy is given at a rate equal to the foster care board payment, unless a special subsidy is already in place or requested | If eligible, the guardianship subsidy is given at a rate equal to the foster care board payment, unless a special subsidy is already in place or requested |
| Returning a child to DCFS | Adoption subsidy will continue while child is in DCFS custody if working toward reunification with adoptive parents | Guardianship subsidy will be terminated while the child is in DCFS custody until child is reunited with guardian or successor guardian |
| Financial responsibility | The adoptive parents, whether receiving a subsidy or not is legally and financially responsible for the child | The legal guardian, whether receiving a subsidy or not is legally and financially responsible for the child |
| Death of adoptive parent/guardian or termination of adoption / guardianship | A child adopted with adoption assistance remains eligible for adoption assistance when he/she is orphaned due to the death of his/her adoptive parent/s parental rights. He or she can continue to receive adoption assistance if adopted by someone else. | A child for who guardianship subsidy was received does not remain eligible for a guardianship subsidy when he/she is orphaned due to the death or incapacity of his/her guardians. |
| Inheritance | An adopted child has all the same rights as birth children when the adoptive parent does not have a will. | The child has no rights of inheritance from the legal guardian unless the child has been included in the guardians will. |
| Legal name | The adoptive parents determine the child's legal name. | The child retains his/her own legal last name. |