



Adopting a Child with Special Needs

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There are up to 134,000 children with “special needs” awaiting permanent homes, according to the National Adoption Center, and the demand is growing. In the context of foster care and child welfare, “special needs” refers not only to a child who has disabilities, but to children whose risk factors for disability, age, racial or ethnic background, or other characteristics often make them more difficult to place.

However, it has been estimated that up to half of the children categorized as having “special needs” have a developmental disability ([*Adopting a Child with a Developmental or Chronic Disability*](#), by Martha Henry and Daniel Pollack). In addition, it’s estimated that 60 percent of all children in out-of-home care have moderate to severe mental health problems, and adolescents living with foster parents or in group homes have about four times the rate of serious psychiatric disorders of those living with their own families ([*A Special Case for Children with Special Needs*](#), by Lacey Mickleburgh).

A special note should be made concerning adoption of Native American children. The federal Indian Child Welfare Act (“ICWA”) requires that agencies try to place such children with extended family or their ancestral tribe first, or other tribes second. While such children may ultimately be adopted outside the Native American community, proper consents should be obtained first.

When adopting a child with special needs, it is best for an adoptive parent to use a licensed public or private adoption agency. Public agencies often have more children with special needs available and more flexible eligibility requirements. Placement may take longer with private agencies and not all private agencies have experience with special needs adoptions.

With many state public agencies, there may be no cost to the parents for such an adoption, while the expense for private agencies can range from nothing to tens of thousands of dollars. To ensure that a particular state will enter into an adoption assistance contract, one should establish that the private agency is licensed and a nonprofit.

The federal Title IV-E adoption assistance program offers monthly maintenance payments, medical assistance and other care services for eligible children with special needs, but is typically only available if the child does not qualify for state adoption assistance. Other

resources to consider are employer benefits, adoption loans and grants, and post-adoption subsidies offered at the state level.

With respect to international adoptions, it is strongly recommended that parents have prior adoption experience before a child with special needs (especially an older child) is selected. They should work with an experienced agency that has a strong reputation. These children may have language hurdles, as well as ongoing physical and psychological needs due to time spent in orphanages or living in the streets. Once the adoption is finalized, there is often less assistance available from the agency.

Self-assessment is an essential early step when considering adoption of a child with special needs. Prospective adoptive parents should ask themselves:

- What disabilities are we prepared to handle?
- What physical and / or emotional challenges are we able to face?
- Do we have the financial resources to care for another child, especially one with disabilities?
- Does our insurance policy cover all of the child's physical and emotional issues, pre-existing conditions and required therapies?
- Does our insurance policy adequately cover the necessary health care providers?
- Will we be able to find a doctor who is willing and capable of providing the level of care the child might require?
- Will our school district be able to support the child's educational needs?
- Have we talked to the parent of a child with a similar condition to help prepare us for the challenges ahead?
- Have we identified sources where we can receive the training necessary to help us support a child with special needs?
- What age range, family background and ethnicity would fit our situation?
- Are we going to help the adopted child maintain contact with birth relatives?

The adoptive parent should secure as much medical information about the child as possible. Information to request about the child, that may be beyond what's typically addressed by adoption agencies, includes: birth weight, gestation at birth, past and present health and developmental information (reading level, physical abilities, social and communication skills), family history, vaccination history, the child's understanding of and

attitude toward adoption, the child's motivation to succeed and responses to frustration or disappointment, and the child's family memories. Adoptive parents should also ask what therapeutic services, such as physical or speech therapy, might be needed.

One way to prepare for adopting a child with disabilities is to spend time with children who have similar needs. Ideally, it is helpful to communicate with a family who has adopted a child with similar issues to gain valuable insights from their experience.

Once a child with special needs is adopted, parents should not forget to review their personal estate planning to address issues such as guardianship and long-term financial support. Members of the Special Needs Alliance can assist in preparing a special needs trust (SNT) customized to the family's situation and designed to preserve ongoing eligibility for public benefits.

Having presided over numerous adoptions as a magistrate and represented many families adopting children in private practice, I have seen firsthand how important adoption is to cementing the relationship between a child and a caring adult who is willing to make a life-long commitment. Still, you owe it to the child, yourself and your family to spend time thoroughly researching the financial, educational, medical and legal planning aspects before rushing into a decision.

A disturbing trend called "rehoming" has arisen in which parents privately arrange for a second placement of an adopted child after the first adoptive placement fails. Not only is rehoming antithetical to the fundamental concept of adoption being a life-long placement, it is obviously very detrimental to the child and can create legal problems if adoptive parents place a child in another home without proper placement through an agency. Adoption failures (also known as "disruptions") can occur even in families with the best of intentions, but proper planning, careful research concerning the child's background and realistic evaluation prior to adoption can significantly reduce this risk.

The following resources may be helpful to individuals considering adopting a child with special needs:

- The North American Council on Adoptable Children ("NACAC"), including their Adoption Subsidy Resource Center and manual entitled "How to Adopt", available at <https://www.nacac.org/>.
- The "Adoption Subsidy and Policy Blog" by Tim O'Hanlan, available at <https://adoptionadvocates.blogspot.com>.
- The Child Welfare Information Gateway (formerly the Adoption Information Clearinghouse) for extensive articles on adoption topics including costs and

assistance and selecting and working with a therapist skilled in adoption, available at <https://www.childwelfare.gov/topics/adoption/>.

- For information concerning the federal adoption tax credit, see <https://www.irs.gov/taxtopics/tc607.html>.
- Adopt US Kids (<https://www.adoptuskids.org>) includes a national listing of photographs of children awaiting adoption, along with information about sibling groups and helpful articles.
- See <https://www.childrensdisabilities.info/adoption/adoption-developmental-health-disability.html> for discussion on adopting a child with a developmental or chronic disability, such as cerebral palsy, autism, cystic fibrosis, learning disabilities, and epilepsy.
- To learn about specific disabilities in the adoption context see <https://www.specialeducationguide.com/disability-profiles/>.

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