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What is an Open Adoption versus a Closed Adoption?

An open adoption is one in which the lines of communication remain open between the adopted child, adoptive parent(s), and the birth parent(s). Identifying information about the child's background is provided, and contact with the birth parent(s) is available. This often includes sending letters or e-mails, spending time with one another, and sending pictures to keep the birth parent updated on the child's life and progress. An open adoption also allows the child to have knowledge of where they came from, and to have their questions about their birth parents and their adoption answered openly and honestly. This can help prevent the adopted child from feeling as if their birth parents did not want them or did not love them.

An open adoption is NOT a co-parenting situation. The birth parents have relinquished their rights and authority over the child and have given those rights to the adoptive parents. The adoptive parents have all the legal rights and authority over the child. The birth parents and the adoptive parents, instead, build an honest and trusting relationship with each other, for the sake of the child. But, critical decisions about the child's life such as where to send them to school, medical decisions, child care decisions, etc will be with the adoptive parents.

Often times, open adoptions will include 'contact agreements' which outline the amount and extent to which the birth parent(s) will have contact and access to the adopted child. The following are examples of provisions that may be included:

- A. The prospective adoptive parent will provide the natural father with current photographs of the minor child on a semi-yearly basis. The prospective adoptive parent may provide photographs more often, but a minimum of twice per year. These photographs may include the minor child in her social environment, as well as school and professional photographs.
- B. The prospective adoptive parents will provide the natural father with written information concerning the minor child on a semi-yearly basis. These writings may be included with the photographs. The writings shall at a minimum include descriptions of the minor child's activities, health, educational progress and social progress.
- C. The natural father shall be permitted to write letters and send photographs to the minor child. Any such letters and/or photographs shall be sent through the prospective adoptive parents for their initial review. The prospective adoptive parents shall provide any such letters and/or photographs to the minor child so long as it is in the

minor child's best interests. The minor child shall be permitted to write letters to the natural father, if he so desires.

These are just a few examples. The contact agreement can be tailored to fit the desires of the adoptive and birth parents as they see fit, as long as it is in the best interests of the child. Contact agreements may also include visitation provisions, such as:

D. Visitation

The prospective adoptive parent, at their discretion, may provide visitation between the natural father and minor child according to the following considerations:

- i. The prospective adoptive parents assume the responsibility for ensuring the minor child's best interest and safety and will consider the following factors in determining when visitation may occur:
 - The minor child's emotional stability.
 - The minor child's desire to have visitation with her natural father.
 - The natural father's ability to relate appropriately with the minor child.
- ii. The natural father may not bring any other third party with him to the visitation unless approved in advance by the prospective adoptive parents.
- iii. Any visitation would occur in a public or other neutral setting to be supervised by the prospective adoptive parents or a person of their choice.
- iv. Any contact between the natural father and the minor child will be initiated through contact with the minor child's adoptive parents.

Any contact agreement will have to be approved by the court that is holding the adoption proceedings, to ensure that the agreement is in the best interest of the child. Each contact agreement is going to be established to fit the desires of the adoptive and birth parents, subject to Nebraska law.

Some adoptive parents may feel that an open adoption is not in their best interests, and so they would want to pursue a closed adoption. A closed adoption, sometimes known as a confidential adoption, is one in which there is no interaction of any kind between the biological parents and the adoptive family. There is no indentifying information provided to either the birth parents or the adoptive parents about each other. Non-indentifying information such as physical characteristics may be provided at times. Any communication that does occur is handled through the adoption agency or attorney.

There are advantages to a closed adoption versus an open adoption. A closed adoption allows for the adoptive parents to act with freedom in making their



decisions about the interests of their child. They do not have to make decisions with

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concerns about visitation or communication from the birth parent. They have free reign to raise the child as they see fit without any hesitation. Further, a closed adoption prevents the creation of unclear boundary lines – the adoptive parents do not have to operate with concerns about birth parent interference or co-parenting situations arising. Finally, a closed adoption may prevent the interference from unstable birth families, if that is the situation in the adoption.

Of course, where there are advantages, there are also disadvantages to a closed adoption. The adoptive family, especially in this era of increased technology, may fear that the birth parents will seek out the child soon (or potentially years later) after the adoption has taken place, or even seek the return of the child. The limited, and indirect, communication between the two families may make it difficult to gauge the intents and desires of the birth parents. There is less access to family medical histories of the adoptive child in a closed adoption. A child adopted through a closed adoption proceeding could also become confused later in life, especially in their teenage years. They may have identity issues because they do not know where they came from, they could become depressed and feel as if they were unwanted or not loved by their birth parents, and they will likely have questions about their family tree that simply cannot be answered.

If you have any further questions, feel free to contact either of our attorneys.

