

Unadoptable — IS — Unacceptable

Removing Legal Barriers to
Permanency for Older Youth

A GUIDE FOR LEGAL PARTNERS IN THE CHILD WELFARE SYSTEM



Dave Thomas
Foundation
for Adoption®

Forever Families for Children in Foster Care



ABOUT THE DAVE THOMAS FOUNDATION FOR ADOPTION

The Dave Thomas Foundation for Adoption is a national nonprofit public charity dedicated exclusively to finding permanent homes for the nearly 155,000 children waiting to be adopted in North America's foster care systems. Created by Wendy's® founder Dave Thomas, who was adopted, the Foundation implements evidence-based, results-driven national service programs, foster care adoption awareness campaigns and innovative grantmaking. Learn more at davethomasfoundation.org, or call 1-800-ASK-DTFA.



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A Message from the President & CEO

More than 25 years ago, Wendy's® founder Dave Thomas, who was adopted, created the Dave Thomas Foundation for Adoption with a clear vision — every child will have a permanent home and a loving family.

Today, the Foundation continues its pursuit of Dave's vision through signature programs, partnerships, and awareness-building campaigns focused on finding forever families for the nearly 155,000 children waiting to be adopted in North America's foster care systems.

Through our signature program, Wendy's Wonderful Kids, the Foundation provides grants to public and private adoption agencies to train recruiters in an evidence-based, child-focused recruitment model, which focuses on achieving permanency for youth who are most at risk of aging out of foster care. This includes children aged nine and older, sibling groups, and children with mental or physical challenges as well as children who have given up hope for a family or been labeled *unadoptable* by the professionals charged with their care. The model is proven to be up to three times more effective at serving youth who have been in foster care the longest. To date, Wendy's Wonderful Kids adoption recruiters across North America have found permanent homes for more than 8,500 children.

In 2017, the Foundation launched an ambitious 12-year plan to scale Wendy's Wonderful Kids in all 50 states and Washington, D.C. This work has provided unique insight into systemic barriers that consign too many children to leaving foster care without the security of a permanent family.

The legal system plays a crucial role in safeguarding vulnerable youth who are placed in foster care through no fault of their own. When the system is unsuccessful at reunifying these children with their biological parents, judges, guardians ad litem, and agency attorneys all have an impact on whether these children find a safe, permanent home.

This guide explores the most common legal challenges that Wendy's Wonderful Kids adoption recruiters encounter as they move children from foster care into their adoptive families and offers solutions for how legal partners can help remove the barriers that threaten permanency efforts.

We believe every child, no matter their age or the circumstances surrounding their journey through the child welfare system, is adoptable. Please join us in the movement to make *unadoptable unacceptable*.

All good wishes,



RITA L. SORONEN, PRESIDENT & CEO

Require Evidence-Based Recruitment Efforts

REASONABLE EFFORTS REQUIREMENT

Judges, agency attorneys, and others representing children must require and advocate for evidence-based adoption recruitment efforts for older youth and children with special needs.

Federal law requires states to make reasonable efforts to finalize the permanent placement of a child in foster care.¹ Many court opinions discuss the reasonable efforts requirement in the context of removal and reunification of children with their biological parents. Yet, very little case law addresses or defines reasonable efforts in the context of timely permanency for children with an adoption case plan goal.²

In the absence of case law, courts should require, and those representing children should advocate for, services that are proven to achieve timely permanency to meet the reasonable efforts requirement. This requires attorneys working in the child welfare field to understand trends in foster care adoption and current adoption recruitment services.

Traditional recruitment methods have not proven to be effective at serving the hardest-to-place children.

TRADITIONAL ADOPTION RECRUITMENT TYPES

Child welfare systems have traditionally used some combination of general recruitment, targeted recruitment, and child-specific recruitment in an attempt to secure adoptive homes for children in foster care.

General recruitment: General recruitment focuses on increasing the pool of people interested in adopting from foster care. In theory, this approach should result in more youth being adopted. However, individuals and families contacted through general recruitment are not always interested in or equipped to parent older youth or children with special needs.

Targeted recruitment: Targeted recruitment involves identifying families that reflect the ethnic and cultural needs of children awaiting adoption, as required by the Multi-Ethnic Placement Act.³ Like general recruitment, targeting strangers based solely on their similarity to the pool of children in need of adoptive homes does not necessarily ensure permanency for older youth or children with special needs.

Child-specific recruitment: Child-specific recruitment uses public displays, including online profiles, videos, and pictures of waiting children, to recruit adoptive families. Wednesday's Child campaigns, for example, feature waiting children on the news.

¹ 42 U.S.C. § 671(a)(15)(C) (2018).

² JUDGE LEONARD EDWARDS (RET.), REASONABLE EFFORTS: A JUDICIAL PERSPECTIVE 41 (2014).

<http://www.ncjfcj.org/resource-library/publications/reasonable-efforts-judicial-perspective>

³ 42 U.S.C. § 622(b)(7) (2018).

Heart galleries and adoption exchanges post profiles of children for prospective families to view online. Child presentations involve social workers sharing profiles of waiting children to prospective parents with completed home studies.

Federal law requires child welfare agencies to use child-specific recruitment efforts for every child with a permanency plan of adoption, relative placement, legal guardianship, or another planned permanent living arrangement (APPLA).⁴

The Foundation has discovered two major disadvantages to child-specific recruitment. First, the publicity used in child-specific recruitment can be stigmatizing for youth.

A child's consent is not always required for their name, photo, and personal information to be displayed for anyone to see. Children may find the publicity to be deeply embarrassing, as they may not want people in their local community to know they are in foster care. This invasion of privacy is exacerbated by the lasting nature of information in the digital age.

Additionally, if a child is not chosen by a family after having their information displayed publicly, it can increase the child's feelings of being unwanted and the trauma associated with feeling *unadoptable*.



Second, child-specific recruitment is not as effective for children most at risk of aging out of the foster care system.

Most prospective adoptive families are not looking for older youth with complex trauma histories. This can be seen in the decreased adoption rate for older children.⁵ For older youth and children with complex needs, general recruitment, targeted recruitment, and child-specific recruitment are not likely to succeed in the search for permanency.

⁴ 42 U.S.C. § 675(1)(E) (2018).

⁵ 24 The AFCARS Report 5 U.S. DEP'T HEALTH & HUM. SER., CHILD. BUREAU (2017), <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport24.pdf>



CHILD-FOCUSED RECRUITMENT AND THE WENDY'S WONDERFUL KIDS PROGRAM

In 2004, the Foundation created Wendy's Wonderful Kids to address the ineffectiveness of business-as-usual adoption recruitment strategies and help find forever families for the approximately 20,000 children emancipating from foster care each year.⁶

Adoption agencies repeatedly told the Foundation that more dedicated resources were needed to get the hardest-to-place children adopted. Through Wendy's Wonderful Kids, the Foundation provides grants to public and private adoption agencies to train recruiters in an evidence-based, child-focused recruitment model. Wendy's Wonderful Kids recruiters work with smaller caseloads of children, ensuring they have the time and resources to give each child as much attention as he or she deserves.

By the time these children are referred to a recruiter:

90%

are **older than age 8**

33%

have had **six or more placements**

52%

have been in foster care for **more than four years**



Require Evidence-Based Recruitment Efforts

continued

The evaluation found this method of recruitment to be dramatically more successful than business as usual:

A key strategy in the child-focused recruitment model is to explore the child's history and contact people with whom the child has a pre-existing relationship (such as relatives, neighbors, mentors, teachers, former foster parents, etc.) who may serve as potential adoptive placements or as sources of information to find a permanent home for that child. Finding an adoptive parent who the child already knows, when possible, can increase the child's comfort with and openness to adoption. Instead of working to find the right child for adoptive parents, Wendy's Wonderful Kids recruiters strive to find the right adoptive parents for the child.

Wendy's Wonderful Kids recruiters are expected to meet with each child on their caseload at least once a month, thoroughly review the child's case file, and contact people previously known to the child to build a network dedicated to finding the child a permanent, adoptive family. The Foundation also requires recruiters to record data monthly on children served and recruitment activities to ensure adherence to the child-focused recruitment model and measure its success.

In 2011, Child Trends released results from a rigorous, five-year evaluation of the child-focused recruitment model, which used monthly data collected by Wendy's Wonderful Kids recruiters.

Children **served by the model** were

1.7_x

more likely to be adopted

Older children were up to

3_x

more likely to be adopted

Children **with mental health issues** were over

3_x

more likely to be adopted

Backed by research proving its effectiveness at achieving permanency for youth in foster care, the Foundation worked to expand Wendy's Wonderful Kids across the United States and in Canada. In 2012, the Ohio Department of Job and Family Services funded a statewide expansion of the program to include 54 Wendy's Wonderful Kids recruiters who serve the state's longest-waiting children. In 2017, with a significant investment from Blue Meridian Partners,⁷ the Foundation launched an ambitious 12-year plan to continue expanding Wendy's Wonderful Kids in all 50 states. With a fully executed plan, the Foundation will have enough recruiters in each state to serve all the children in its target population (typically youth nine and older, sibling groups, and those with mental or physical disabilities).

⁷ Blue Meridian is a partnership of results-oriented philanthropists seeking to transform the life trajectories of our nation's young people and families living in poverty by investing in strategies that work.



Require Evidence-Based Recruitment Efforts

continued

MEETING THE REASONABLE EFFORTS REQUIREMENT

With evidence proving the effectiveness of the child-focused recruitment model, advocates, attorneys, and judges in the child welfare system should consider this approach for youth without an identified permanency option to meet the agency's reasonable efforts obligation.

Judges may order, or attorneys may file, a request for the services of Wendy's Wonderful Kids recruiters like any other service they would order on behalf of a youth in foster care.

These legal filings may be particularly helpful at certain hearings, including:

Termination of parental rights (TPR)

Case plan change to adoption, APPLA, or placement with a fit and willing relative

Subsequent permanency reviews

Legal filings can also be drafted to gather information necessary for future proceedings. For example, one innovative judge in Florida issues an order to the agency to produce all documentation necessary for adoption following the TPR order. This simple order avoids potential future barriers to adoption and enables a smoother and quicker adoption process, benefiting both the child and adoptive family.

Child-Focused Recruiter Involvement in Court

The legal system should view a Wendy's Wonderful Kids recruiter as a valuable part of the youth's team. The recruiter's close relationship with the youth and intensive recruitment work is a crucial source of information for judges, attorneys, and others advocating for children in court. Judges should invite the recruiter to permanency hearings and receive updates from the recruiter directly to identify any potential barriers in getting the child adopted.

Traditional recruitment methods have not proven to be effective at serving the hardest-to-place children lingering in the foster care system. Judges and legal partners should ensure that agencies are using evidence-based, adoption recruitment practices, such as the child-focused recruitment model, to meet the reasonable efforts threshold set by federal law.

Believe All Children are Adoptable

THE INFLUENCE OF “ADOPTABILITY” ON PERMANENCY GOALS

It is crucial to the success of permanency efforts that those involved in the child welfare system believe that all children are adoptable.

The belief that some children in foster care are *unadoptable* often ends a child's opportunity for permanency before recruitment even begins by inappropriately influencing a child's permanency goal.

This is especially true for older children or those with special needs. Children in these categories tend to be given more “realistic” permanency goals, such as placement with a fit and willing relative, legal guardianship, or a variation of APPLA (e.g., emancipation, planned permanent living arrangement, other planned permanent living arrangement, long-term foster care, etc.). These goals are not ideal because they deprive youth of the possibility to obtain the most legally secure type of permanency: *adoption*.

Adoption is the preferred permanency goal when a family cannot be reunified because it is the most stable and long-lasting legal status. Additionally, both parents and adopted children are given increased legal rights. Parents obtain the legal responsibilities and constitutional rights to the care, custody, and control of the child.⁸ Adopted children gain inheritance rights and next-of-kin status.⁹ Therefore, courts and attorneys should carefully consider permanency goals to ensure each child is given the opportunity to find their adoptive family.



⁸ *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

⁹ Child Welfare Information Gateway, Intestate Inheritance Rights for Adopted Persons, U.S. DEP'T HEALTH & HUM. SER., CHILD. BUREAU (2016), <https://www.childwelfare.gov/pubPDFs/inheritance.pdf>

TERMINATION OF PARENTAL RIGHTS AND THE PROBLEM WITH LEGAL ORPHANS

The decision to terminate parental rights (TPR) should not be influenced by the belief that a child is *unadoptable*.

Many states, either by statute or case law, refuse to TPR if the child is believed to be *unadoptable*. A Wisconsin statute, for example, asks the court to consider the child's adoptability as a threshold issue to TPR.¹⁰

Many courts are reluctant to TPR due to the fear of creating "legal orphans." The term "legal orphan" refers to children who age out of the system without familial ties because no adoptive family was found and the legal relationship with their biological family was severed through TPR. Yet, the harm created by a failure to TPR is greater than the perceived risk of aging out as a legal orphan. The underlying assumption is that aging out with parental rights terminated is worse than aging out with parental rights still intact. Whether or not parental rights are terminated, both groups age out of foster care without critical supports necessary to navigate young adulthood.

As demonstrated by the 2010 Midwest Study, youth who aged out of foster care were significantly more disadvantaged than typical young adults on a number of domains, including post-secondary education, employment, housing instability, public assistance, early parenting and involvement in the criminal justice system.¹¹



There is no demonstrable evidence that these outcomes are better for youth who lingered in foster care with an APPLA goal. If the biological parents were not a safe placement at age 17, it is unlikely that they will be appropriate to parent the child in early adulthood.

Ironically, unwillingness to TPR based on the child's perceived adoptability leads to more children aging out of foster care. Delaying or denying TPR requires an adoptive family to be recruited before the child is legally free. Wendy's Wonderful Kids recruiters find it more difficult to recruit for legally unfree children because adoptive families fear the child will return to their biological parents. Even when families are willing to risk attachment to a child who has parental rights intact, the length of multiple court proceedings can add additional stress for adoptive families and youth. TPR and adoption proceedings could take years before finalization. During that time, adoptive family circumstances may change making it harder for the adoption to move forward.

¹⁰ Wis. Stat. § 48.426 (1979).

¹¹ Mark E. Courtney et al., Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 23 and 24, CHAPIN HALL U. CHICAGO 95-96 (2010).



Youth can also become unsettled by being in an intermediate legal state. When TPR is not finalized, youth may feel a tension between loyalty to their biological family and potential adoptive placements. Before adoption occurs, youth must have space to grieve the loss of their biological family. Separating the TPR proceeding from the adoption proceeding gives youth time to heal and feel more comfortable moving forward. Delaying the process also leaves room for adoptive placement disruption to occur. The stress created by the prolonged court process may feed into a child's anxiety that they are unwanted and cannot rely on anyone but themselves.

Finally, practical concerns should be considered when delaying or denying TPR. The long legal process between TPR and adoption leaves less time to finalize before youth age out of care. While adult adoption is an option in most jurisdictions, adoptive families may find it difficult to adopt without the support of the child welfare system.

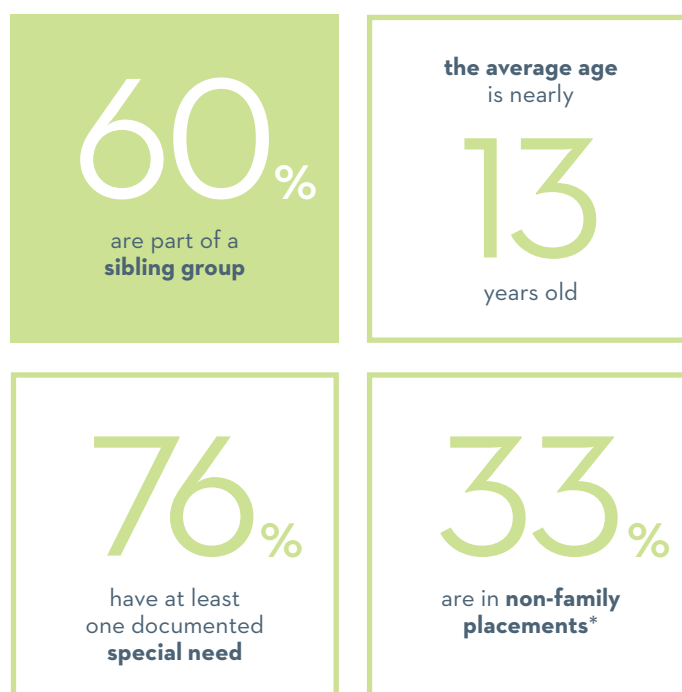
Another concern is that appropriately finding and serving disengaged biological parents, as required for TPR proceedings, may be difficult, which could further delay the process. Basing the decision to TPR on the child's perceived adoptability is often what frustrates efforts to find the adoptive family that each child deserves.



**A CHILD'S CHARACTERISTICS SHOULD NOT
DETERMINE LIKELIHOOD OF ADOPTION**

The concept that a child's characteristics determine his or her adoptability is inconsistent with the Foundation's experience in finding adoptive homes for children waiting in foster care. Wendy's Wonderful Kids recruiters have successfully found forever families for the most difficult-to-place children when business-as-usual adoption tactics failed.

**Of the children currently served by
Wendy's Wonderful Kids:**



*such as group homes, treatment centers, or juvenile detention centers

Despite challenges that may qualify these children as *unadoptable*, **Wendy's Wonderful Kids recruiters have employed the child-focused recruitment model to find permanent, loving homes for more than half of the children served by the program since 2004.**

The program's success shows that a child's likelihood of adoption should not be determined by their characteristics. All children are adoptable, but they must be served with adoption recruitment methods that are child-focused and evidence-based to be effective. In states where adoptability is considered, legal allies can rely upon the success of Wendy's Wonderful Kids to make arguments and encourage decisions that all children are adoptable despite their characteristics.

Prioritize Permanency Over Placement Stability

ONLY LEGAL PERMANENCY OFFERS LIFELONG STABILITY

An essential path to successful adoptions is prioritizing permanency for children above achieving placement stability.

Placement stability is initially appealing for children who have had multiple placements and are doing well at a particular group home or foster placement. “No removal” orders can even be issued by the court to ensure the child stays in this placement and is protected from upheaval. While placement stability is appropriate in some circumstances, it is not a proper substitution for adoption.

The Dave Thomas Foundation for Adoption has witnessed many youth who are left with little to no stability or support after aging out of the system. Foster families, or other seemingly stable relationships, often are not able to offer long-term support. For example, when the youth leaves a foster family, they are likely replaced by another foster child needing care. Consequently, youth are left with the void of undefined family, and without the stability and support all young adults need — a place to come home to for Thanksgiving dinner; a grandparent for their children; sound advice on relationships, jobs, and other important markers of adulthood; and a safety net during life’s inevitable challenges.

Adoption recruitment services do have the potential to uncover difficult emotions that could create instability in an otherwise seemingly stable child. However difficult, it is necessary to process these emotions for the youth to heal and move forward. While the child welfare system should anticipate upheaval during this process, it is worth stepping outside of comfort zones by both the system and the child so that every child can find a legally permanent, lifelong family.



FEDERAL LAW FAVORS PERMANENCY

Federal law increasingly recognizes the importance of permanency over placement stability for youth in foster care. Congress has eliminated long-term foster care, continued to narrow eligibility for APPLA, and restricted the placement of youth in congregate care settings.

In 1997, Congress passed the Adoption and Safe Families Act (ASFA) to end the plight of youth lingering in foster care by putting in timelines for the termination of parental rights and replacing long-term foster care with APPLA as an acceptable goal.¹² In the years following ASFA's passage, it became clear that APPLA was being used as a mere substitution for long-term foster care. In response, Congress again acted with the Preventing Sex Trafficking and Strengthening Families Act of 2014 to restrict the usage of APPLA to children age 16 and above.¹³ Congress further restricted the unnecessary placement of children in congregate care settings through passage of the Family First Prevention Services Act in 2018.¹⁴ These actions recognize that youth should be in permanent family settings when at all possible. Federal law and a concern for the wellbeing of children require that the legal community prioritize long-term permanency over temporary placement stability.



Youth should be
in permanent family
settings when at
all possible.

¹² Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (1997).

¹³ Preventing Sex Trafficking and Strengthening Families Act of 2014, Pub. L. No. 113-183, 128 Stat. 1919 (2014) (42 U.S.C. §675(5)(C)(i)).

¹⁴ Bipartisan Budget Act of 2019, Pub. L. No. 115-123, 132 Stat. 64 (2018) (42 U.S.C. § 672(k)).

Support Biological Family's Role in Permanency Efforts

BIOLOGICAL FAMILY AS ADOPTIVE PLACEMENT

Biological family members play a crucial role in becoming or recruiting appropriate adoptive families for older youth and children with special needs.

The law has started to recognize instances where changed circumstances result in the biological parents, whose rights have previously been terminated, becoming the most appropriate placement. This is particularly true when the child has been in foster care for many years. Thus, states have begun creating legislation that allows courts to reinstate parental rights.¹⁵ The legal system must analyze these cases through the lens of what is best for the child rather than whether a parent is deserving of their child's return.

Likewise, biological family outside of the parents can serve as beneficial and appropriate adoptive placements. Biological relatives can be viewed skeptically when bad habits of the unfit parents are assumed to extend to other relatives. Birth relatives can also be overlooked if they were unable to take placement when the child first entered care. However, biological relatives' circumstances can change, including the relative's age, financial resources, marital status, or time commitment. Changing circumstances could make it possible for the relative to be an adoptive resource later in the case. Biological relatives can help the child escape from toxic family relationships while still maintaining biological ties.

BIOLOGICAL FAMILY ROLE IN ADOPTION PREPARATION

Even when the biological family is not an appropriate adoption placement, they can be a valuable resource in finding a permanent home for the child.

The biological family is often an excellent source of information about the network of people who had an impact in the child's early life (e.g., teachers, coaches, faith-based connections, etc.), and who may be a prospective adoptive parent. Additionally, information provided by the biological family about the child's past could offer insight into the type of family that would best meet the child's needs. Wendy's Wonderful Kids recruiters have also found that the biological family can support the recruiter's efforts to prepare a child for adoption. The biological family may give the child permission to be adopted, or share information that allows the child to come to terms with their inability to go back to the biological family, or help the child understand their past.

¹⁵ Reinstatement of Parental Rights State Statute Summary, NAT'L CONF. ST. LEGISLATURES (Apr. 21, 2016), <http://www.ncsl.org/research/human-services/reinstatement-of-parental-rights-state-statute-sum>

LEGAL BARRIERS AROUND BIOLOGICAL FAMILY IMPACT RECRUITMENT EFFORTS

The legal community should reduce barriers that discourage recruiter communication with a child's biological family.

No contact orders issued by the court to prevent contact with the biological family can impact adoption recruitment efforts. While the order may be appropriate for the child, applying such an order broadly could prevent the recruiter from obtaining essential information. Adoption recruiters need the ability to reach out to the biological family to better understand the child's history, needs, and connections.

Sealed adoption records are an additional legal barrier that Wendy's Wonderful Kids recruiters encounter. Laws in some states require a child's entire child welfare case file to be sealed after the child is adopted. This can be problematic for children whose adoption dissolves, leading children back into foster care. Approximately a quarter of all children served by the Wendy's Wonderful Kids program have previously experienced a disrupted pre-adoptive placement or adoption dissolution. This leaves recruiters in some jurisdictions without access to the child's original case file, and therefore unable to get important information about the child's history, relatives, or potential adoptive resources. Courts should ensure that recruiters have access to the child's original case file, particularly in cases with a previously dissolved adoption.



Biological family has an essential role in the adoption recruitment process. It is critical that judges and child welfare attorneys reduce barriers that prevent recruiters from learning information that could help in finding each child the permanent family they deserve.

Understand Children's Reluctance to Adoption

UNPACKING THE "NO"

Courts and legal partners must understand and explore why children in foster care are often hesitant about the idea of adoption.

The Foundation supports the National Council of Juvenile and Family Court Judges' recommendation that all children in foster care attend court hearings unless there is an individual assessment that attendance is not safe or appropriate for the child. The child's presence at court hearings can complement adoption readiness efforts by educating the child as to what is happening in their case and empowering the child to have input in the outcome. However, this means that all parties involved in a child's case must be prepared for the child to initially say "no" to adoption and understand why that should not foreclose adoption recruitment efforts.

The underlying fear of many youth is that no one will want them.

Wendy's Wonderful Kids recruiters have found that most older youth initially express concerns with being adopted, and, in fact, recruiters expect that the youth will oppose adoption efforts on their behalf. Once recruiters build a relationship with the youth, they begin to explore the youth's fears about adoption, which is referred to as "unpacking the no."

The most common fears include:

Fear of **the unknown**

Fear of **being re-abused**

Changing schools and **last names**

Leaving communities and friends

Being separated from siblings

Wondering if they **will be safe and happy** with their new family

Fear of rejecting or hurting their biological family

Normal teen feelings of **wanting independence**

Wondering what **new family rules** will be

Not trusting adults because of past abuse, trauma, grief, and loss in their lives



Understand Children's Reluctance to Adoption

continued

The underlying fear of many youth is that no one will want them. This fear is affirmed by the reality that many of these children have been in care for five years or more, and no one has stepped forward to adopt them.

By building a trusting relationship with the child, Wendy's Wonderful Kids recruiters gain key insight into the youth's specific fears concerning adoption. Recruiters consider these fears when developing an adoption recruitment plan.

For example, if a youth's resistance is out of fear that they will be forced to change their last name, the recruiter will seek a family comfortable with the youth keeping their last name. Because adoption recruitment can be specifically tailored to each child's needs, the initial reluctance to consider adoption should not influence case plan goals or the decision to refer adoption recruitment services. Courts and legal partners should be sure that youth opposed to adoption are given specialized services to work through their fears and are given a chance at finding a loving family.

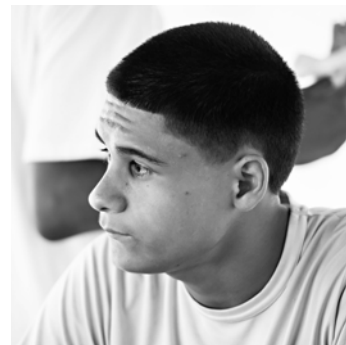
ADOPTION CONSENT LAWS

Adoption consent laws should not be used as a basis to deny adoption recruitment efforts.

Many states have adoption consent laws that require a child over a certain age to consent before an adoption is finalized.¹⁶ If a child initially does not want to be adopted, states can rely on these statutes to deny TPR or prevent the child from receiving an adoption case plan goal. This reasoning is invalid because these statutes only require consent after a specific adoptive parent has been identified. Before a parent is identified, there is nothing to which the child can consent.

Courts and other legal partners should not deny a child the opportunity to be adopted based on the child's current feelings about adoption. Rather, children opposed to adoption should receive specialized services that are tailored to meet their specific needs.

Recruiters trained in the child-focused recruitment model help youth to overcome their hesitancy to being adopted by validating their fears, helping them process their emotions, and empowering them in the recruitment process.



Recognize that Youth are Never Too Old for Family

FOSTER CARE TO 21: HOMELESSNESS DELAYED, NOT PREVENTED

Despite most states increasing foster care benefits to age 21, the child welfare legal system should continue its urgent push to find adoptive families for youth aging out of foster care.

The Fostering Connections to Success Act of 2008 has led the majority of states to extend foster care benefits until age 21 by providing financial assistance to those who meet federal eligibility requirements.¹⁷ Though this has the potential to benefit youth, a 2010 study on states that extended foster care to age 21 prior to the Act revealed that the percentage of youth aging out into homelessness did not decrease — it merely postponed homelessness by three years.¹⁸ The financial benefits that are given for an extra three years in foster care can never replace the intangible support of a lifelong family.

ADULT ADOPTION

Although extending foster care cannot take the place of a permanent family, it provides a key benefit for adoption recruitment: additional time to find an adoptive home.

Most states permit youth who have aged out to be adopted as an adult.¹⁹ Yet many times, recruiters are prevented from working with youth ages 18 and older. Extended foster care gives the child welfare system a unique opportunity to find permanent families for vulnerable young people entering adulthood, even after they turn 18 years old. Families interested in adopting a foster youth over age 18 still need supportive services to walk them through the legal and emotional process.

Courts can play a key role in coordinating these services. Adoption should be pursued for young adults in extended foster care programs to ensure that they are equipped to successfully navigate adulthood with the support of a family.

IN CLOSING

With the help of legal partners in the child welfare system, the Dave Thomas Foundation for Adoption will continue its work to prevent youth from aging out of foster care without a permanent home. The system must dismiss the notion that these youth are too old, too damaged, or too dangerous to deserve a family. All children are adoptable with the appropriate adoption recruitment services. **Together, we can make *unadoptable unacceptable*.**

¹⁷ Extending Foster Care Beyond 18, NAT'L CONF. ST. LEGISLATURES (July 28, 2017), <http://www.ncsl.org/research/human-services/extending-foster-care-to-18>

¹⁸ Amy Dworsky & Mark Courtney, Assessing the Impact of Extending Care Beyond Age 18 on Homelessness: Emerging Findings from the Midwest Study, Chapin Hall U. Chicago 7 (2010).

¹⁹ Child Welfare Information Gateway, Who May Adopt, Be Adopted, or Place a Child for Adoption?, U.S. DEP'T HEALTH & HUM. SER., CHILD. BUREAU (2016), <https://www.childwelfare.gov/pubPDFs/parties.pdf>



The Dave Thomas Foundation for Adoption developed this guide and is providing it to the legal community in partnership with Jockey Being Family®.

Adoption is not a single event; it's a lifelong journey. Post-adoption services are essential to offer families the guidance and diversified support they need to thrive.

Parenting is difficult in the best of circumstances, and often more challenging when a child has had a difficult start. Children who spend time in foster care often have experienced abandonment, abuse, neglect, and other traumas that require extra support. It's normal for every family to face challenges. These challenges often appear during the child's developmental stages, with some challenges presenting themselves long after the adoption is finalized.²⁰ For more than 13 years, Jockey Being Family® (Jockey) has been a leader in providing post-adoption support to strengthen adoptive families for successful futures. Jockey connects adoptive parents and children with education and resources to help prevent failed adoptions, which result in thousands of children returning to foster care each year.

The Jockey Being Family National Backpack Program provides newly adopted children with a backpack personalized with their initials. Each backpack includes a bear and blanket, which for many children, are the first belongings of their own. This small gesture can have a big impact on a child's life. Jockey also provides parents with a tote bag of resources to help navigate the adoption journey.

Post-permanency (adoption) support programs are vital to helping preserve families. However, the availability of these programs is not always communicated clearly during the adoption process. Legal professionals are essential to encourage the use of these services. As permissible by law, judges, court clerks, and adoption agencies can order backpacks through the Jockey Being Family website to ship to the courthouse for adoption day. The Jockey Being Family Foundation is proud to partner with the Dave Thomas Foundation for Adoption and is committed to providing support to families nationwide to help shape these forever homes into lasting places of love.

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Dave Thomas
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Forever Families for Children in Foster Care

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