



Naval Legal Service Office Pacific
Legal Assistance Division
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Preventative Law Series

Adoption and DOD Reimbursement

Adoption is the process of legally substituting a new parent or parents for a biological parent or parents. It usually eliminates any and all rights a biological parent may have, absolutely and forever, and gives those rights without qualification or exception to the adopting parent(s). Any person, whether a minor or adult, may be adopted. Once finalized, an adoption is nearly irreversible.

There are two methods of adoption: a private adoption and an agency adoption. A private adoption usually involves an adopting parent or parents and a child whose identity is previously known to them. The most common private adoptions are the stepparent adoption, where a stepparent adopts his or her spouse's children by a previous relationship, and the adoption by grandparents of a grandchild neglected or abandoned by the parents. Agency adoptions vary. They can be accomplished using state welfare offices, foster care programs, church organizations, commercial agencies, and placement services. To adopt through an agency, prospective adopting parents register with an agency, which then evaluates their suitability as parents and the best type of child for them. Once a child that matches the parents is found, the child will live with the adopting parents for a period of time under supervision of the agency to ensure that everything is working out. After this time passes the adoption is finalized. If you are contemplating using a private agency, be sure to check whether they are a "qualified adoption agency" for purposes of the DoD Adoption Reimbursement Program or the Adoption Income Tax Credit.

Legal Process

Adoption usually requires several steps:

- the parental rights of the natural parents are terminated,
- a hearing is conducted to determine the adopting parents' suitability as parents, and
- a final court decree of adoption is obtained.

Parental rights can be terminated only by a court and only when there is "clear and convincing evidence" that it is in the best interests of the child. Parental rights may be terminated involuntarily if a court is satisfied a parent has abandoned the child, has failed to support the child, has abused the child, or has otherwise neglected parental responsibilities. Parental rights may also be terminated by voluntary consent of the natural parents. A consent signed by the natural parents is not binding until the court approves it and the adoption is finalized. Death terminates the parental rights of the deceased parent, but does not terminate the right of the child to share in the estate of the deceased parent. Once the child is adopted, however, any right to inherit from the natural parents normally ends.

In addition to determining whether parental rights should be terminated, the court must determine if the adoptive parents are suitable parents for the child. The court may make this determination in open court, but more commonly will ask an appropriate agency to investigate

the home environment and return a confidential report to the judge. An agency investigation may be waived under certain circumstances.

After appropriate notice to all who might have an interest in the case, the court conducts a final hearing. Afterwards, the judge will either approve or disapprove the adoption. Once an adoption is approved, a new birth certificate with the adoptee's new name may be issued.

DoD Reimbursement for Adoption Expenses

Two instructions are relevant to DoD Reimbursements for Adoption Expenses, DODINST 1341.9 and OPNAVINST 1754.4. The Navy instruction merely implements the DODI which is more comprehensive. You may see references to a SECNAVINST 1754.3A but that has been cancelled.

Pursuant to the instructions, Servicemembers are eligible for \$2,000 for each child they adopt up to a maximum of \$5,000. In order to apply for the reimbursement Servicemembers must submit a completed DD Form 2675. Commanders are encouraged to grant regular leave in order to let the adopted children bond with their new parents but no amount is listed. Servicemembers are also excludable from deployments for 6 months following the adoption; however, that time can be waived by the Servicemember.