



**Office of Children
and Family Services**

A stylized graphic of a house in shades of blue and purple, positioned behind the title text.

Know Your Permanency Options: The Kinship Guardianship Assistance Program (KinGAP)

Fully understanding their options is
the best way for caregivers to
have a voice and a choice.



Office of Children and Family Services

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Caring for Children Away from their Homes

Sometimes children are placed in the care of others because they cannot stay at home with their parents. When the local child welfare agency decides to remove a child from the home, the agency will notify relatives and certain non-relatives who have a connection to the child and ask if they are interested in caring for the child.

The child welfare agency in New York State is usually the local department of social services (LDSS). There are 58 LDSS offices across the State (listed at:

ocfs.ny.gov/main/localLDSS.asp).

In New York City, the child welfare agency is called the Administration for Children's Services (ACS). There also are voluntary agencies that assist in placing children in foster homes.



What is Guardianship?

Guardianship means that the court appoints you as the child's legal guardian. As guardian, you will have the right and responsibility to make decisions that affect the life and development of the child.

After you become the child's guardian, the LDSS, ACS, or voluntary agency will no longer be involved in the care, supervision, or legal custody of the child.

See Chapter 2 of *Having a Voice & a Choice: Handbook for Relatives Raising Children* for more information on legal guardianship. It also can be found at www.ocfs.state.ny.us/main/publications/Pub5080.pdf

Some key points:

- Guardianship is a permanent commitment to be responsible for and support the child until he or she reaches adulthood. In some cases, with the youth's consent, guardianship may continue until the youth is 21.
- As guardian, you can make medical and educational decisions for the child.
- You may be eligible for kinship guardianship assistance payments *, temporary assistance (TA), Medicaid, food stamps, SSI, child support, or other financial assistance, if qualified.
- LDSS/ACS or the voluntary agency will no longer supervise the case, although you can request preventive or other services (see page 6) if you need help to keep the child in your home.
- The child's parents still have parental rights over the child unless these rights have been terminated or surrendered. They can usually visit the child. They also can file a petition to have custody returned to them. The judge can return custody to the parent(s) if they can show there has been substantial change in their circumstances since the original order and if it is in the child's best interests.

**If a child was placed with you as a foster child for at least six-months and the case meets certain other requirements (see page 7), you may receive kinship guardianship assistance payments.*

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The Kinship Guardianship Assistance Program

If you are a **fully certified or approved foster parent** and a child has been placed with you in foster care for six-months or more, you may be eligible for the Kinship Guardianship Assistance Program (KinGAP). KinGAP is designed to support permanent placements for children in foster care with adults who have a strong connection to the child or child's family. These adults include relatives to whom the child is related by either blood, marriage, or adoption; relatives of half-siblings; and non-relatives who had a positive relationship with the child or child's family prior to when they began caring for the child as a foster parent. This program provides financial support and, in most cases, medical coverage for the child. The financial support is similar to the foster care maintenance payments you receive as a foster parent.

Included with this booklet are two attachments to review with your caseworker when exploring your permanency options.

“Factors for Foster Parents to Consider When Reviewing Permanency Options”

(page 12) will help you and your caseworker determine the best permanency option for the child and your family. ***“New York State’s Permanency Comparison Chart”*** (page 13) compares kinship guardianship assistance, adoption assistance, and foster care. Please read this information carefully and ask your caseworker any questions you may have.

Eligibility for KinGAP

LDSS/ACS will determine if you are eligible for KinGAP. The following are the **minimum requirements for eligibility***:

- The child is under 21-years old and is in foster care.
- You are related to the child by blood, marriage, or adoption, or you are related

to a half-sibling of the child by blood, marriage or adoption and are, in the process of becoming, a KinGAP guardian of the half-sibling or you had a positive relationship with the child or child's family before the child came into foster care with you.

- The child has been placed with you in foster care for at least six consecutive months while you have been a fully certified or approved foster parent.
- The child has demonstrated a strong attachment to you.
- You have a strong commitment to caring permanently for the child.
- Neither a return home nor adoption is an appropriate plan for the child.
- LDSS/ACS has determined that there are compelling reasons that neither returning home nor adoption is in the child's best interests.
- LDSS/ACS has determined that it is in the best interests of the child for you to be his or her guardian.
- If the child is age 14 or older, he or she must be consulted. At age 18 or over, the youth must consent to the kinship guardianship arrangement.
- The initial permanency hearing must have taken place in family court.
- A fact-finding hearing must have been completed if the child was removed from the home due to abuse or neglect or the child was destitute.
- Necessary criminal history record checks and child abuse/maltreatment database checks have been completed for you and other adults age 18 and over who live in your home. If such clearances were conducted in the process of becoming a certified or approved foster parent, they will not need to be redone.

You may be entitled to kinship guardianship assistance payments for sibling groups, but each sibling must meet the above eligibility requirements on his or her own.

* These are just some general guidelines and there may be other circumstances that prevent participation in the KinGAP program. The LDSS/ACS will make a determination based on your specific case after you have submitted an application to participate in the KinGAP program.

State policy encourages siblings to be placed together in kinship guardianship arrangements whenever possible.

** These are only general guidelines and other circumstances may prevent participation in KinGAP. Your LDSS/ACS will make a determination based on your specific case after you apply for KinGAP.*

STEP 1: Applying for KinGAP

Discuss KinGAP with your agency caseworker. If you think you may be eligible, you must complete an application provided by the LDSS/ACS or voluntary agency that certified or approved you as a foster parent.

Eligibility cannot be determined, and your application cannot be approved, until certain specific requirements are met. These are related to the time the child has spent in your foster home (at least six months) and the court hearings that must take place (the first permanency hearing and the fact-finding hearing for children who were removed to foster care due to abuse or neglect or due to the child being destitute). In addition, it is important to remember that the child's parent(s) need enough time to work toward the child's return home, and LDSS/ACS must be able to determine that reunification is unlikely to occur within a reasonable period of time.

Once you apply for kinship guardianship assistance, LDSS/ACS will assess whether or not you and the child meet the eligibility requirements and whether kinship guardianship is a viable permanency plan for the child. If you work with a voluntary agency caseworker instead of a LDSS/ACS caseworker, that worker will assist you with applying and the LDSS/ACS agency will make the final decision, based on the information and recommendation made by your voluntary agency caseworker.

If your application is denied, you will be notified about why you were denied and your right to request a fair hearing to review the determination before the New York State Office of children and Family Services (OCFS). The denial notice will include information on how to request a fair hearing.

If you do not receive a decision on your completed application within 30-days of submission, you also have the right to request a fair hearing.

If your application is approved, you must sign a Kinship Guardianship Assistance Agreement with your caseworker.

STEP 2: The Kinship Guardianship Assistance Agreement

Once you are approved for kinship guardianship assistance, your caseworker will give you a Kinship Guardianship Assistance Agreement to review and sign. Read this agreement carefully, including the "*Summary of New York State's Kinship Guardianship Assistance and Non-Recurring Guardianship Expenses Programs.*" You have the right to consult with an attorney before signing this agreement.

The agreement will describe the financial assistance and medical coverage to be provided, as well as the monthly payment amount, how payments will be made, how payments may be adjusted, and additional services and benefits for which you or the child may be eligible (see page 7).

You will be given the option to name a successor guardian in the agreement. A successor guardian is someone who assumes guardianship of the child, and receives kinship guardianship assistance payments, in the event of your death or incapacity. The successor guardian should be someone you know and trust who is willing to provide long-term care for the child if you become incapacitated or pass away. If you do not name a successor guardian in the agreement, you may do so at a later time through an amendment to the agreement. You may also change the successor guardian through an amendment to the agreement.

Generally speaking, your kinship guardianship assistance payment will be comparable to the amount you received as a foster parent for the child. In some counties, however, it may be up to 25 percent less, depending on your income and family size. The amount will not be less than if you adopted the child with an adoption subsidy.

By law, the Kinship Guardianship Assistance Agreement must be in place before letters of guardianship are issued by the court. If the court grants you guardianship before you enter into the Kinship Guardianship Assistance Agreement with LDSS/ACS, you cannot be eligible for kinship guardianship assistance payments.

Reimbursement for Expenses

In addition to monthly kinship guardianship assistance payments, you will receive a one-time reimbursement payment of up to \$2,000 per child for expenses directly related to assuming guardianship of the child, such as court costs and attorney's fees. This reimbursement is also part of the Kinship Guardianship Assistance Agreement.

In some cases, arrangements can be made to pay expenses related to the guardianship directly to your lawyer. Ask your caseworker how it is handled in your county.

Reimbursement requests can be submitted up to two years from the date letters of guardian were awarded by the court.

STEP 3: Filing for Guardianship

After the Kinship Guardianship Assistance Agreement has been signed, you may petition the court for guardianship. You or your lawyer (not LDSS/ACS) must file the petition. If the child is in foster care because of abuse or neglect, is a destitute child, was voluntarily placed, or is freed for adoption, the petition must be filed with the family court that has been presiding over the foster care case.

If the petition is granted, the court will issue letters of guardianship, which means guardianship will be transferred to you and the child will be discharged from foster care.

Kinship guardianship assistance payments start once you have a Kinship Guardianship Agreement in place and the letters of guardianship have been issued.

Duration of Kinship Guardianship Assistance Payments

Guardianship assistance may continue until the child is 18-years old or until the child is 21-years old as long as you remain legally responsible for the support of the child and continue to support him or her during that period.

In order for kinship guardianship assistance to continue for a youth age 18 or over, the youth must consent to the continuation of the guardianship, the court must grant the continuation, and the youth must currently be:

1. completing secondary education or a program leading to an equivalent credential (like a GED program);
2. enrolled in an institution that provides post-secondary or vocational education;
3. employed for at least 80 hours per month;
4. participating in a program or activity designed to promote or remove barriers to employment; or
5. incapable of any such activities due to a medical condition, which is supported by regularly updated information.

You will be asked annually to certify and provide information about the status of the child in your home, including his or her educational or employment status. When you receive the request for this information from LDSS/ACS, it is important that you complete the form and return it promptly.

Once guardianship is granted, there will be some changes in your ability to receive child welfare-related services and some new duties you will have as the child's guardian. It is important that you understand these changes and responsibilities before you decide to become the child's guardian.

Please see page 11, "Important Facts for Foster Families to Know." It explains what you can expect and what will be required of you after you are appointed legal guardian and begin receiving kinship guardianship assistance payments.



2 Other Benefits or Services

Medical Assistance

With the exception of non-qualified immigrant children, all children in Kin-GAP will receive medical assistance.

Medical assistance coverage will continue for as long as you receive kinship guardianship assistance. If kinship guardianship ends before the child reaches 18-years of age, up to an additional 12-months of continuous medical assistance will be provided to the child.

When a youth exits KinGAP at age 18, medical assistance coverage can continue up to the end of the month he or she turns 19.

Non-qualified immigrant children may be provided medical coverage in one of several ways:

- adding the child to private insurance coverage available to the guardian, provided that this coverage is affordable;
- enrolling in Child Health Plus or another state medical plan that does not consider the applicant's immigration status in determining eligibility, unless the guardian has a good reason for not applying for such coverage; or
- using the New York State KinGAP medical subsidy program. This program reimburses kinship guardians for expenses related to medical care, services, or supplies, up to the level allowable in the medical assistance program.

In addition, if a child has applied for immigration relief, such as Special Immigrant Juvenile Status (SIJS), he or she may qualify for medical assistance.

For information on SIJS, see page 23 of *Having a Voice & a Choice: New York State Handbook for Relatives Raising Children*. The New York State Department of Health (DOH) Medicaid Reference Guide (www.health.ny.gov/health_care/medicaid/reference/mrg/april2008.htm) under "Other Eligibility Requirements: Satisfactory Immigration Status Qualified Immigrants," specifies the immigration status types that qualify for assistance and the documentation that is needed.

Speak with your caseworker if you have any medical coverage questions.

Independent Living Services

If a youth is 16-years of age or older when he or she leaves foster care and enters a kinship guardianship arrangement, independent living services may be available to assist the youth in preparing for adulthood and independence. These services may include independent living skills, assessment and training in topics such as budgeting and financial management skills, alcohol and substance abuse prevention, preventive health activities, shopping, cooking, and housecleaning.

Independent living services also may include academic support services to assist youth with finishing high school, completing an equivalency program (GED), or preparing for a post-secondary education. Youth may also receive vocational training assistance, which may include formal on-the-job training or training programs in a marketable skill or trade.

These services are available in every county, but how they are provided can vary. Check with your caseworker on how your LDSS/ACS provides these services.

Education and Training Vouchers (ETV)

If a youth who is 16 or older leaves foster care for a kinship guardianship arrangement, he or she may also qualify for education and training vouchers (ETV) of up to \$5,000 per year for college or vocational training costs, depending on availability. Consult your caseworker to find out how to apply for this voucher program.

Public Benefits

Your family may also qualify for other benefits such as temporary assistance (TA), food stamps, and heating assistance (HEAP) through the TA office or the Human Resource Administration (HRA) in New York City. If you work, you may be eligible for help with child-care costs. Check with your local LDSS TA office or HRA for more information and how to apply for these programs.

Other helpful benefits may include Women, Infants, and Children (WIC) nutrition assistance (for children under the age of five) and free lunch at school.

It is important to discuss with these other programs the fact that you currently are receiving kinship guardianship assistance payments, as this may affect your eligibility.

Social Security (SSI)

Some children may qualify for Social Security benefits, based on their disabilities and the earnings of their parents. Your LDSS caseworker should be able to tell you if the child currently receives these benefits. If the child is receiving SSI benefits after kinship guardianship assistance payments begin, you should inform Social Security that you are receiving payments from KinGAP on behalf of the child, as this may affect the amount of your benefit.



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Frequently Asked Questions

Can I receive services after guardianship?

Your family occasionally may need assistance or services after the kinship guardianship arrangement is in place. Information about available services can be found on the OCFS website at www.ocfs.state.ny.us/main/prevention/programsbycounty.htm or the Kinship Navigator website at www.nysnavigator.org/ or by calling **877-454-6463**.

Preventive services may be available through LDSS/ACS if the child is at risk of being returned to foster care. If you feel you need services to prevent your child from being placed back into foster care, contact your LDSS/ACS to request services.

What if I move out of state?

The Kinship Guardianship Assistance Agreement will remain in effect if you move out of state.

The LDSS/ACS that signed the Kinship Guardianship Assistance Agreement will continue to process your monthly assistance payment if you move out-of-state, and you should continue to contact the LDSS/ACS. If you have questions about your assistance check.

Your Kinship Guardianship Assistance Agreement will include specific information on continuing medical coverage if you move out-of-state.

It is important to contact LDSS/ACS as soon as possible after you decide to move, so all the details can be addressed before you leave.

What do I need to report to LDSS/ACS?

After you begin receiving kinship guardianship assistance payments, you need to notify LDSS/ACS if:

- the child no longer lives in your home;
- you are no longer the guardian of the child, including when the letters of guardianship have been revoked, terminated, suspended, or surrendered;
- you are no longer providing any support for the child;
- you are no longer legally responsible for the support of the child;
- there is a change in the educational/vocational program or employment status of a youth age 18 or older;
- you move to another address;
- the child gets married;
- the child enlists in the military; or
- the child dies.

Once a year, LDSS/ACS will send you a letter and form requesting that you verify that you are still legally responsible for and supporting the child. The notice will also request certification and documentation of the child's current educational, vocational, or employment status and other factors related to this status. You must supply this information to continue receiving your kinship guardianship assistance payments.

In some instances, LDSS/ACS may request a meeting with you to discuss the child's status. It is important that you provide information and attend a meeting if requested to do so. Failure to provide the documentation requested by LDSS/ACS or the failure to meet with LDSS/ACS within the specified time period may be grounds for termination of the Kinship Guardianship Assistance Agreement.

Where can I learn more about KinGAP?

Deciding to become the guardian for the child placed in foster care with you is an important choice that can have a significant impact on the future of the child and your family. If you have further questions, please speak with your case-worker. For additional information click "Kinship Care" on the OCFS website (<https://ocfs.ny.gov/kinship/>).

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Important Facts for Foster Families to Know

This checklist contains important information for foster parents who are considering participation in the Kinship Guardianship Assistance Program (KinGAP). It covers the changes in support and services you currently receive as a foster parent and the new duties you will assume if you choose this permanency option. Please read this checklist over carefully and talk to your caseworker if you have any questions. You may also want to consult with an attorney to review the legal implications and the process of being appointed guardian.

Support and Service Changes

When I become the child's legal guardian, I understand that:

- ▶ The child will no longer be in foster care.
 - ▶ The child and I will no longer receive caseworker visits.
 - ▶ The child and I will no longer be required to go to court to review the foster care case.
 - ▶ I am not prevented from adopting this child at any time in the future.
 - ▶ I may lose access to some services or assistance that are currently available or could become available to a child in foster care.
 - ▶ In lieu of the foster care payment, I will receive a monthly kinship guardianship assistance payment that will not be more than the board rate I was receiving while the child was in foster care, but could be up to 25 percent less than this amount.
 - ▶ If the child leaves foster care for a kinship guardianship arrangement at age 16 or older and I am receiving kinship guardianship assistance payments on the child's behalf, he or she is eligible for independent living services and to apply for Education and Training Vouchers.
- ▶ Kinship guardianship assistance payments will continue until the child's 18th birthday and may continue until the youth is age 21, as long as he or she consents to the continuation of the guardianship, the court grants the continuation, and is:
 1. completing secondary education or a program leading to an equivalent credential (like a GED program);
 2. enrolled in an institution that provides post-secondary or vocational education;
 3. employed for at least 80 hours per month;
 4. participating in a program or activity designed to promote or remove barriers to employment; or
 5. incapable of any such activities due to a medical condition, which is supported by regularly updated information.
 - ▶ The child (unless he or she is a non-qualified immigrant) will receive medical assistance. The specifics of this assistance will be included in my Kinship Guardianship assistance Agreement. If the child is a non-qualified immigrant, the agreement will describe medical coverage that is available.

Duties of the Guardian

When I become the child's legal guardian, I understand that I will have the following duties and obligations to the child:

- ▶ I am responsible for the protection of the child and for meeting the personal needs of the child. Personal needs include food, clothing, and shelter.
- ▶ I can make decisions regarding the care, control, and physical custody of the child.

- ▶ I am responsible for the educational decisions and social needs of the child. This includes consent for participation in school activities that require permission from the parent or guardian.
- ▶ I am responsible for making the medical decisions and obtaining other professional care, treatment, or advice that the child may need. This includes consenting to medical care and treatment for the child.
- ▶ I may decide where the child lives, inside or outside the borders of New York State.
- ▶ I can consent to out-of-state and international travel.
- ▶ I can request child support from the birth parents on behalf of the child.
- ▶ It is my responsibility to apply for financial benefits to which the child may be entitled (such as Supplementary Security Income or veterans' benefits).
- ▶ When I submit applications for financial benefits from other agencies, I must inform them that I am receiving kinship guardianship assistance payments on behalf of the child.
- ▶ I must respond promptly to annual requests for information from LDSS/ACS.





Factors for Foster Parents to Consider When Reviewing Permanency Options

Directions for the foster parent: Please complete this tool in the presence of the child's caseworker so your response to each statement can be discussed with and clarified by the caseworker. Use this tool when a determination has been made to focus on a permanency option for the child other than reunification. The tool is designed to help both you and the caseworker think about permanency options that best meet the needs and circumstances of both your family and the child. Give the completed tool to the caseworker so it can be included in the child's uniform case record. You also should have a copy for your own records.

	YES	NO
1. If the child cannot return home to his/her parent(s), the best long-range plan is for him/her to stay with me.....	<input type="checkbox"/>	<input type="checkbox"/>
2. I am willing and able to continue to provide a safe and stable home environment for the child.....	<input type="checkbox"/>	<input type="checkbox"/>
3. I am willing and able to care for the child without casework intervention.	<input type="checkbox"/>	<input type="checkbox"/>
4. I am willing and able to work with the school to address the child's needs.....	<input type="checkbox"/>	<input type="checkbox"/>
5. I am willing and able to work with medical providers to address the child's needs.....	<input type="checkbox"/>	<input type="checkbox"/>
6. I am confident in my ability to manage any special needs the child may have.....	<input type="checkbox"/>	<input type="checkbox"/>
7. I am confident in my ability to manage family issues, such as illness and child-rearing problems.....	<input type="checkbox"/>	<input type="checkbox"/>
8. I currently do not have health conditions that would significantly limit my ability to care for the child.....	<input type="checkbox"/>	<input type="checkbox"/>
9. I have the support from family, friends, community, etc., that is needed to raise the child.....	<input type="checkbox"/>	<input type="checkbox"/>
10. The child is well-integrated into my family.....	<input type="checkbox"/>	<input type="checkbox"/>
11. I am willing to accept an adoption subsidy or kinship guardianship assistance in lieu of my current foster care payment.....	<input type="checkbox"/>	<input type="checkbox"/>
12. I am comfortable with legally changing our family relationship.....	<input type="checkbox"/>	<input type="checkbox"/>
13. I am willing to pursue adoption of the child.....	<input type="checkbox"/>	<input type="checkbox"/>

If you answer "yes" to all statements, you should discuss the adoption with the child's caseworker.
If you answer "no" to several of the statements, discuss other options for the minor with the child's caseworker.
If you answer "no" to statement 13, discuss your reasons with the minor's caseworker. If you answered "no" but still wish to achieve permanency for the minor, discuss the Kinship Guardian Assistance Program Minors (KinGAP) with the minor's caseworker.

Based on your comments, the minor's caseworker, his / her supervisor, and the social services district local authority or the New York City Administration for Children's Services), will determine if adoption assistance or assistance for relatives as guardians of minors will respond better to the needs of the child.



New York State's Permanency Comparison Chart

Adoption Assistance, Kinship Guardianship Assistance, and Foster Care

Caregivers who adopt or assume guardianship under the kinship guardianship assistance program are making strong commitments to children. Adopting a child is a commitment that lasts for a lifetime. Although guardianship legally ends when the child reaches adulthood, guardians should enter into this commitment intending it to be a lifelong relationship as well. This tool is designed to help caseworkers and prospective guardians compare the options of adoption assistance, kinship guardianship assistance, and foster care.

New York State Comparison Chart			
	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Legal Rights and Responsibilities of the Caregiver	<p>The adoptive parents are given all the rights and responsibilities that once belonged to the birth parents.</p> <p>When the adoptive parents are married, both spouses must adopt, unless they are legally separated or have been physically separated for three years. Adoptive parents may also be single parents or unmarried partners adopting together.</p> <p>Adoption is expected to be a permanent, lifelong, legal relationship.</p>	<p>The guardians are given legal responsibility for the child and assume the rights of care, control, and supervision of the child.</p> <p>When the guardians are married, either one or both spouses may be named as a guardian. Guardians may also be single parents.</p> <p>Though guardianship often results in a lifetime relationship, the letters of guardianship end when the child turns 18 or 21, depending on whether the child consents to continuation of the kinship guardianship arrangement until he/she reaches 21-years of age and the court grants such continuation.</p> <p>Guardians who have been appointed as "permanent" guardians may consent to the child's adoption by someone else. (Permanent guardianship may be granted by the court for a child who is freed for adoption or orphaned).</p>	<p>The foster parents share some parenting rights with LDSS/ ACS/ Voluntary Agency (VA); however, the Commissioner of LDSS/ACS retains the care and custody, or custody and guardianship of the child.</p> <p>Foster parents may not consent to medical care for the foster child and must obtain LDSS/ACS permission for certain other activities such as out of state travel with the child.</p> <p>Foster parents can be married, single parents or unmarried partners.</p> <p>Though foster care can result in a lifetime relationship, the relationship usually ends or significantly diminishes when the child is no longer in the foster home. LDSS/ACS can remove the child from the foster parents' home with prior notice or without prior notice, if the health or safety of the child requires immediate removal.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Birth Parents' Parental Rights	The birth parents' rights must be voluntarily relinquished (surrendered) or involuntarily terminated for the child to be adopted.	<p>The birth parents' rights may or may not be voluntarily relinquished (surrendered) or involuntarily terminated prior to a kinship guardianship arrangement.</p> <p>Birth parents whose rights have not been terminated have the right to request from the court that the letters of guardianship be vacated (ended) so that the child can be returned to their care. It is the burden on the birth parents to prove to the court that circumstances have changed significantly, that they are able to provide proper care for their child, and that the change is in the child's best interests. In this sense, legal guardianship is less permanent than adoption.</p>	The birth parents' rights may or may not be voluntarily relinquished (surrendered) or involuntarily terminated when a child is in foster care.
Right of Decision-Making and Consents	Parental rights are assumed by the adoptive parents and, therefore, all decisions are made by the adoptive parents.	<p>Major decisions regarding education, medical treatment and consent for most other major life decisions for the child are made by the guardians.</p> <p>The birth parents may still be involved in the child's life and some decisions, though the degree of involvement may be impacted by whether or not the birth parents' parental rights have been terminated/ surrendered and their relationship with the child.</p>	<p>The LDSS/ACS commissioner consents to medical care, educational decisions, and other major life decisions for children in foster care.</p> <p>If the birth parents' parental rights have not been terminated or surrendered, the birth parents may be involved in some of the decision-making.</p> <p>The foster parents can consent to routine activities such as joining a school club or dating but should check with LDSS/ACS regarding other consent issues.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Relationships with the Birth Parents and Siblings or Half-Siblings	<p>Adoptive parents usually take the lead role in determining the relationship the child will have with the birth parents and sibling(s). In many cases, connections with birth parents or sibling(s) are important to the child. Adoptive parents can determine whether they want to maintain these connections and how they will be maintained.</p> <p>Under some circumstances, such as a conditional surrender, visitation/contact with birthparents and sibling(s) will be guided by a post-adoption contact agreement that is incorporated into the written court order.</p>	<p>Many children exit foster care to guardianship so their relationships with birth parents and/or sibling(s) can be maintained. If the child has not been freed for adoption, in most cases birth parents have the right to visit the child, unless the letters of guardianship prohibit contact and/or visitation.</p> <p>The guardians are responsible for keeping the child safe while in the presence of the birth parents and consequently, will have input into how the visits are structured.</p> <p>If the guardians and the parents cannot work out visitation, the court may specify details of visitation and/or contact in the letters of guardianship. If an issue occurs after the letters of guardianship have been issued, the guardians could request that the court modify the contact/visiting plan in the letters of guardianship.</p>	<p>LDSS/ACS and courts determine the child's relationship with birth parents and sibling(s). Parent visitation is to be expected, unless a court order otherwise. If siblings are not placed together, sibling visitation is also to be expected, unless such contact would be contrary to the health, safety or welfare of one of the siblings.</p> <p>The foster parent may be asked to assist with visitation and cannot change visitation plans without the expressed consent of the caseworker.</p>
Child's Legal Name	The adoptive parent(s) determine the child's legal name at the time of the adoption.	The child generally retains his/ her own legal name; however, the child's name can be changed through a court.	The child retains his/her own legal name. Foster parents cannot change the child's name.
Consent of/ Consultation with the Child for Legal Status	A child who is 14-years of age or older must consent to his/ her own adoption, unless the court rules otherwise.	<p>There must be age-appropriate consultation with the child regarding the kinship guardianship arrangement.</p> <p>The caseworker and the court must consult with a child 14-years of age or older regarding the kinship guardianship arrangement.</p> <p>A youth 18-years of age or older must consent to the kinship guardianship arrangement.</p>	<p>Children under 18 do not consent to placement in foster care.</p> <p>A youth 18-years of age or older must consent to remaining in foster care.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Availability of Financial Assistance	<p>Financial assistance is available for eligible children through an adoption subsidy.</p> <p>Additional payments will not be made by LDSS/ACS for items such as school-related expenses, activity fees, lessons, camp fees, day care, and transportation.</p> <p>Adoptive parents are financially responsible for the support of the child, whether or not they are receiving financial assistance through an adoption subsidy.</p>	<p>Financial assistance is available for eligible children through the Kinship Guardianship Assistance Program.</p> <p>Additional payments will not be made by LDSS/ACS for items such as school-related expenses, activity fees, lessons, camp fees, day care, and transportation.</p> <p>A guardian who does not qualify for kinship guardianship assistance payments may apply to the LDSS or to the Human Resources Administration (in New York City) for a child-only grant through the Temporary Assistance (TA) program.</p> <p>The amount of the grant is generally less than the foster board rate and is reduced for each additional child.</p> <p>The guardian is financially responsible for the support of the child until guardianship ends, whether or not the guardian is receiving kinship guardianship assistance.</p>	<p>Foster parents receive a foster board rate that is intended to reimburse for the costs of caring for the foster child.</p> <p>Children in foster care may also receive assistance for other expenses, such as special clothing, lessons, gifts, babysitting, day camp, and overnight camp.</p> <p>Policies on reimbursement for such items vary from county to county.</p> <p>The LDSS/ACS is ultimately financially responsible for the support of the child while he/ she is in foster care.</p>
Amount of Financial Assistance	<p>The adoption subsidy payment will not be more than the foster care board rate received while the child was in foster care (basic, special, or exceptional).</p> <p>The adoption subsidy payment ranges from 75 percent to 100 percent of the foster care board rate, but it can never be less than 75 percent of the foster care board rate.</p> <p>The subsidy will increase with COLAs and the child's age, as in foster care.</p>	<p>The kinship guardianship assistance payment will not be more than the foster care board rate received while the child was in foster care (basic, special, or exceptional).</p> <p>The amount of the kinship guardianship assistance payment ranges from 75 percent to 100 percent of the foster care board rate, but it can never be less than 75 percent of the foster care board rate.</p>	<p>The annual foster care board rate is set according to the child's age and special needs (basic, special and exceptional).</p> <p>Each LDSS/ACS sets its own foster care board rates, up to the maximum allowed by the OCFS.</p> <p>The foster care board rate payment will increase with COLAs and the child's age.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
<p><i>(continued from previous page)</i></p> <p>Amount of Financial Assistance</p>		<p>The assistance payment will increase with COLAs and the child's age, as in foster care.</p> <p>The kinship guardianship assistance payment will not be less than the amount a family would have received if the child had been adopted with an adoption subsidy.</p>	
<p>Duration of Assistance/ Subsidy and Payment Termination</p>	<p>The adoption subsidy will be provided until the child turns 21, as long as the adoptive parents remain legally responsible for the support of the child and provide any support for the child.</p> <p>Adoptive parents receiving adoption subsidies are required to notify LDSS/ ACS of any changes in circumstances that would affect their continued eligibility for adoption subsidy payments.</p> <p>Annually, adoptive parents will receive a notice requesting certification and documentation of the education status of a school- age child and certification and documentation of the education/employment/ disability status of the youth age 18 or over.</p> <p>Regardless of the child's age, adoption subsidy payments will end if the adoptive parents are no longer legally responsible for the support of the child or are no longer providing any support for the child.</p>	<p>The kinship guardianship assistance payment will be provided until the child is age 18 or until the child turns 21-years, as long as the child consented to the continuation of the guardianship, the court granted the guardianship, and is:</p> <ol style="list-style-type: none"> 1. enrolled in secondary education or a program leading to an equivalent credential; or 2. attending an institution that provides post-secondary or vocational education; or 3. participating in a program or activity designed to promote, or remove barriers to employment; or 4. employed for at least 80 hours per month; or 5. has a medical condition that makes him or her incapable of engaging in any of these activities? <p>Relative and successor guardians receiving kinship guardianship assistance must notify LDSS/ACS of any changes in circumstances that would affect continued eligibility for guardianship assistance payments.</p>	<p>The foster care board rate will continue as long as the child remains a foster child in the foster parents' home.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
<p><i>(continued from previous page)</i></p> <p>Duration of Assistance/ Subsidy and Payment Termination</p>		<p>Relative and successor guardians must comply with the requirements listed in the annual notice from LDSS/ACS including certification and documentation of the education status of a school age child and certification and documentation of the education/employment/ disability status of qualified children age 18 and over.</p> <p>Regardless of the child's age, kinship guardianship assistance payments will end if the guardians are no longer legally responsible for the support of the child, or no longer providing any support for the child.</p> <p>This includes where the status of a legal guardian is revoked, terminated, suspended, or surrendered. It also includes certain situations where the child re-enters foster care and the family court approves a permanency goal of other than return to the guardians.</p>	
<p>Medical assistance (Medicaid) and Medical Coverage</p> <p><i>(see next page)</i></p>	<p>Virtually all children who are adopted with subsidy get medical assistance (Medicaid) for as long as the subsidy continues.</p> <p>The State Adoption Medical Subsidy may provide medical benefits to those few children not qualified for medical assistance.</p> <p>Medical coverage will last for as long as the adoption subsidy, which is up to age 21 if the adoptive parents remain legally responsible for the child and provide support to the child.</p>	<p>Children in a kinship guardianship assistance arrangement are eligible for medical assistance (Medicaid) unless they are non-qualified immigrants.</p> <p>Children receiving medical assistance while in a kinship guardianship assistance arrangement are eligible for continuous medical assistance coverage for a period of up to 12-months after discontinuance of kinship guardianship assistance payments or until the end of the month in which the youth turns 19, whichever occurs first.</p>	<p>All children in foster care are automatically eligible for medical assistance (Medicaid) or LDSS/ACS pays for their medical care.</p> <p>Children who are discharged from foster care at age 18 or older are eligible for continuous medical assistance coverage for a period of up to 12-months after final discharge or until the end of the month in which the youth turns age 21, whichever occurs first.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
<p><i>(continued from previous page)</i></p> <p>Medical assistance (Medicaid) and Medical Coverage</p>		<p>If the child is age 19 or over, or if the continuous coverage period has ended, a separate eligibility determination must be completed.</p> <p>Child Health Plus or State KinGAP Medical Subsidy will provide medical benefits to non-qualified immigrant children.</p> <p>Medical coverage will last for as long as kinship guardianship assistance. At age 19, if kinship guardianship assistance payments are still being made, Child Health Plus coverage ends, but medical subsidy will be provided until the child reaches age 21 or until kinship guardianship assistance payments are discontinued, whichever occurs earlier.</p>	
Non-Recurring Expenses	Adoptive parents may receive a one-time payment for non-recurring expenses directly related to the adoption of a child with special needs, not to exceed \$2,000 per child.	Relative and successor time payment for non-recurring expenses directly related to receiving guardianship of the child, not to exceed \$2,000 per child.	N/A
Accessing Services	<p>Adoptive parents are the primary advocates for accessing services (school, mental/physical health, etc.) for their adopted child.</p> <p>There are some post-adoption support services available through LDSS/ACS and in the community.</p>	<p>The guardians are the primary advocates for accessing services (school, mental/ physical health, etc.) for a child in their guardianship.</p> <p>The guardians can request services and assistance from the LDSS/ACS, including preventive services if the child is at risk of returning to foster care.</p> <p>Some services are available in the community and can be found through the Kinship Navigator website at: www.nysnavigator.org</p>	<p>The LDSS/ACS/VA is the primary advocate for accessing services (school, mental/physical health, etc.) for a child in foster care.</p> <p>The LDSS/ACS/VA will assess the child, make decisions about service needs, and refer the child to programs, as appropriate.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Independent Living Services and Education and Training Voucher (ETV).	<p>Children adopted at age 16 or older remain eligible for some independent living services such as vocational training, independent living skills training, and academic support services.</p> <p>An adopted youth who meets the above age requirement may apply for the Education and Training Voucher (ETV), which provides up to \$5,000 toward attending post-secondary education or a vocational training program.</p>	<p>Children who enter kinship guardianship arrangements at age 16 or older remain eligible for some independent living services such as vocational training, independent living skills training, and academic support services.</p> <p>A youth in a kinship guardianship arrangement who meets the above age requirement may apply for the Education and Training Voucher (ETV), which provides up to \$5,000 toward attending post-secondary education or a vocational training program.</p>	<p>Children in foster care are eligible for independent living services offered by LDSS/ACS, including independent living skills, academic support services, and assessment services and case planning.</p> <p>A foster child may apply for the Education and Training Voucher (ETV), which provides up to \$5,000 toward attending post-secondary education or a vocational training program. In addition, the child may be eligible for after-care services, including room and board services.</p> <p>At age 16 or older, most youth in foster care are eligible for independent living stipends, which are small monthly payments to assist the youth in the development of independent living skills.</p>
Post-Secondary Education Financial Aid	<p>The adoptive parents' income is considered when determining the Expected Family Contribution (EFC) unless the child was adopted at age 13 or older.</p> <p>If adopted at age 13 or older, the child is considered "independent" for the receipt of federal financial aid.</p> <p>When a child is classified as independent, the adoptive parent's income is not considered when the Expected Family Contribution (EFC) is determined.</p>	<p>A child in a guardianship arrangement is considered "independent" for the receipt of federal financial aid.</p> <p>When a child is classified as independent, the guardians' income is not considered when the Expected Family Contribution (EFC) is determined.</p>	<p>A child in a foster care arrangement is considered "independent" for the receipt of federal financial aid.</p> <p>Neither the foster parents nor the birth parents' income is considered when the Expected Family Contribution (EFC) is determined.</p>
Eligibility for Free School Meals	<p>An adopted child would qualify for free school meals only if the adoptive parents meet the income eligibility guidelines.</p>	<p>A child in a kinship guardianship arrangement is categorically eligible for free school meals, without the necessity of an application.</p>	<p>A child in foster care is categorically eligible for free school meals, without the necessity of an application</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Food Stamps – treatment of assistance (subsidy) payment and household inclusion of child	<p>A child who is adopted must be included in the food stamp household.</p> <p>Adoption subsidy payments in excess of allowable expenses are counted as income and are considered to be unearned income to the food stamp household.</p> <p>Income from adoption subsidy payments must be budgeted in determining the household's food stamp eligibility and benefit amount.</p>	<p>The treatment of kinship guardianship assistance payments depends on whether or not the child for whom payments are received is included in the food stamp household.</p> <p>If a child is included in the food stamp household, then the kinship assistance payments for that child are included as income when determining the eligibility for that household.</p> <p>If a child is not included in the food stamp household, kinship guardianship assistance payments are excluded.</p>	<p>The treatment of foster care payments depends on whether or not the child for whom payments are received is included in the food stamp household.</p> <p>If a child is included in the food stamp household, then the foster care payments for that child are included as income when determining the eligibility for that household.</p> <p>If a child is not included in the food stamp household, foster care payments are excluded.</p>
Temporary Assistance (TA) for Needy Families – treatment of assistance (subsidy) payment and household inclusion of the child.	<p>Whether to include a child in a temporary assistance (TA) case for whom the kinship guardian is receiving assistance payments depends on whether the family will benefit financially by including or excluding that child.</p> <p>When a child receiving an adoption-subsidy is included in the TA case, the full adoption subsidy must be budgeted as unearned income.</p>	<p>Whether to include a child in a temporary assistance (TA) case for whom the kinship guardian is receiving assistance payments depends on whether the family will benefit financially by including or excluding that child.</p> <p>When a child receiving kinship guardianship assistance payments is included in the TA case, the full assistance payments must be budgeted as unearned income.</p>	<p>A foster care child is not considered to be a member of the household of the foster parent(s) for the purposes of temporary assistance (TA).</p> <p>This means that the foster care child is not included in the TA case and the foster care income is exempt for TA.</p>
Home Energy Assistance Program (HEAP) –treatment of assistance (subsidy) payment and household inclusion of the child.	<p>When determining Home Energy Assistance Program (HEAP) eligibility, adopted children are included in the household count, but the adoption subsidy is considered excluded income.</p>	<p>When determining Home Energy Assistance Program (HEAP) eligibility, children in a kinship guardianship assistance arrangement are included in the household count, but kinship assistance payments are considered excluded income.</p>	<p>When determining Home Energy Assistance Program (HEAP) eligibility, the inclusion of the child in the household count depends on whether or not the child is related to the foster parent.</p> <p>If the child is related to the foster parent, he/she is included in the household count.</p> <p>If the child is not related to the foster parent he/she is not included in the household count.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
<p><i>(continued from previous page)</i></p> <p>Home Energy Assistance Program (HEAP) –treatment of assistance (subsidy) payment and household inclusion of the child.</p>			<p>Foster care income is always considered excluded income, regardless of the child's relationship to the foster parent.</p>
		<p>There is no tax credit available for the expenses involved in assuming guardianship of a child.</p> <p>The relative guardians should consult with a tax professional regarding the tax ramifications of entering into a kinship guardianship arrangement.</p>	N/A
<p>Death of Adoptive Parents/ Relative Guardians</p> <p><i>(see next page)</i></p>	<p>If adoption subsidy payments are being received on behalf of a child and the adoptive parents die before the child reaches the age of 18, the adoption subsidy may continue to be paid to a person who has assumed guardianship or legal custody of the child until the child is 21-years of age.</p> <p>If adoption subsidy payments are being received on behalf of a child and the adoptive parents die after the child is 18-years of age, the adoption subsidy may continue to be paid until the child reaches the age of 21 either to a person appointed guardian of the child, a representative payee, or directly to the adopted child.</p>	<p>A child for whom kinship guardianship assistance payments were received does not receive such assistance payments upon the death of the guardians.</p> <p>If the guardian named a successor guardian in the kinship guardianship assistance agreement, or in an amendment to the agreement, then the successor guardian will assume guardianship of the child and receive the kinship guardianship assistance payments following the death (or incapacity) of the relative guardian after approval by the local social services district.</p>	

¹ For information on other child related tax credits (CTC, EIC, etc.) that may be available to adoptive parents, relative guardians, or foster parents a tax professional should be consulted and/or the IRS website at <https://www.irs.gov/>.

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
<p><i>(continued from previous page)</i></p> <p>Death of Adoptive Parents/Relative Guardians</p>		<p>If no successor guardian was named, or if such person is named but not approved by the local department of social services, then kinship guardianship assistance payments will end with the death of the relative guardian.</p> <p>In such a case, the person assuming caregiver responsibility for the child after a guardian's death, will not receive the kinship assistance payments, but may apply for a Non-parent Caregiver Grant through the TA program at the LDSS or Human Resources Administration in New York City, if the child is below age 18.</p> <p>The amount of this grant generally will be less than the kinship guardianship assistance payment.</p>	
<p>Inheritance Rights and Survivor Benefits</p>	<p>An adopted child has the same rights as the adoptive parents' birth children when the adoptive parents do not have a will. Otherwise, inheritance rights are established through a will as they are for birth children.</p> <p>An adopted child is also entitled to survivor benefits, such as pension or Social Security, in the event of an adoptive parent's death.</p> <p>As a general rule, the right to inherit from and through the birth parents ended with the issuance of the order of adoption.</p> <p>An adopted child is entitled to continue to receive survivor benefits due to the death of his/her birth parents.</p>	<p>A child in a kinship guardianship arrangement has no rights of inheritance from the guardians, unless the child has been included in the guardians' will.</p> <p>The child continues to have the right to inherit from his/ her birth parents regardless of whether or not that child has been freed for adoption.</p> <p>A child who is in a guardianship arrangement is entitled to continue to receive survivor benefits due to the death of his/her birth parents, including after the letters of guardianship are issued.</p>	<p>A child in a foster care placement has no rights of inheritance from the foster parents, unless the child has been included in the foster parents' will.</p> <p>The child continues to have the right to inherit from his/ her birth parents regardless of whether or not that child has been freed for adoption.</p> <p>A child who is in a foster care placement is entitled to continue to receive survivor benefits due to the death of his/her birth parents, but LDSS is able to use those benefits to offset the cost of care for that child.</p>

New York State Comparison Chart

	Adoption Assistance (Subsidy)	Kinship Guardianship Assistance	Foster Care
Returning a Child to the Foster Care System	<p>An adoptive child may enter foster care from the adoptive parents' home for the same reasons and through the same legal means as a child who is removed from his/her birth parents.</p> <p>These reasons can include abuse, neglect, voluntary placement, Person in need of supervision (PINS), juvenile delinquency, or surrender of the child.</p>	<p>A child in a kinship guardianship arrangement may enter foster care from the guardians' home for the same reasons and through the same legal means as a child who is removed from his/her birth parents.</p> <p>These reasons can include abuse, neglect, voluntary placement, destitute child, Person in need of supervision (PINS), or juvenile delinquency.</p> <p>In addition, the guardian can directly petition the court to have the guardianship revoked, terminated, suspended, or surrendered.</p>	N/A



Office of Children and Family Services

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Visit our website at:
<https://www.ocfs.ny.gov>

For information about foster care, and/or adoption call:
1-800-345-KIDS (5437)

If you have concerns about a child care provider,
call the Child Care Complaint Line at:
1-800-732-5207

To report child abuse and neglect, call:
1-800-342-3720
1-800-638-5163 TDD/TTY

For information on the Abandoned Infant Protection Act, call:
1-866-505-SAFE (7233)

For information about services for the blind, call:
1-866-871-3000

Pursuant to the Americans with Disabilities Act, the New York State Office of Children and Family Services will make this material available in an appropriate format upon request.