

# Adoption Advocate



## Post Adoption Contact Agreements: What They Are, What They Include, and How They Help

BY ELISA ROSMAN, PHD, MA

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*"How often will there be phone calls between my child and their birth mother?"*

*"What will visits with my child and their birth parent look like?"*

*"Will I be in touch with my child's birth parents via social media?"*

*"If I place my child for adoption, will I be able to see pictures as she grows up?"*

*"If I place my child for adoption, will I be able to share important information about our family's history with him?"*

**O**pen adoption is now the norm in the United States, with a robust body of research highlighting the benefits and importance of openness. Research from the Minnesota Texas Research Adoption Project, one of the largest and oldest longitudinal studies of adoptive families and birth mothers, finds the following benefits of open adoption:

- Adolescents understand that there are multiple adults in their lives who care for them but have different roles in their lives and see their birth relatives as real people who can share information about their background;
- Birth mothers have less unresolved grief; and
- Adoptive parents don't fear birth parents but rather benefit from their relationship with them.<sup>1</sup>

However, open adoption is certainly not a straightforward endeavor, and embarking on an open adoption may bring up all of the above questions for adoptive and birth parents. A Post-Adoption Contact Agreement (PACA) can be an important tool in addressing these questions and becoming comfortable with the answers.

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<sup>1</sup> Grotevant, H. (2019). *Open adoption: Rethinking family*. Rudd Adoption Research Program Publication Series: The Future of Adoption, University of Massachusetts Amherst. <https://drive.google.com/file/d/1zS6C0SM4hCwfSgDXVdp9bda2Ha14L8SN/view>

## What is a Post-Adoption Contact Agreement?

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A PACA can help to fill the void created by the fact that the law does not define what constitutes contact between adoptive and birth families. As Advokids explains, a PACA, a common part of an open adoption, is an arrangement that creates guidelines for contact after the adoption is finalized.<sup>2</sup> These agreements are typically made between members of the adoptive family and members of the birth family and can also include the child if they are over the age of 12. They usually include provisions for sharing information about the child in the future, as well as considerations regarding the amount and type of contact that will occur.

PACAs can promote effective communication and ensure that everyone is on the same page. If, as the child grows up, there is any sort of breakdown in communication or disagreement about what was agreed to originally, the PACA provides a written reminder of what all parties agreed to. PACAs help ensure that phrases such as “we’ll stay in touch,” which are vague and can be interpreted differently by different people, are clearly defined and agreed to. PACAs can also help the relationship between the birth parents and adoptive parents stay on track as adoptees grow up and receive more autonomy in decision-making regarding ongoing contact with their birth family.

Because the PACA can help clarify communication, it can also be a valuable tool in helping birth parents decide which

prospective adoptive parents might be a good match for them. If either party is requesting a type or level of contact that the other party is not comfortable with or cannot agree to, then that particular match is probably not a good fit.

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It is best practice in private domestic adoption for both birth parents and adoptive parents to have independent legal counsel, and this counsel can be an essential resource for making a PACA. As the Academy of Adoption & Assisted Reproduction Attorneys explains, once birth and adoptive families agree to the content of a PACA, it must be approved by the court. The court will ensure that the PACA meets the crucial goal of being in the best interest of the child.<sup>3</sup> However, once a PACA is agreed upon, it is incumbent on all parties to honor the agreements made, even when the agreement is not court-enforceable.

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<sup>2</sup> Advokids. (n.d.). *Post adoption contact agreements*. <https://advokids.org/post-adoption-contact-agreements/>

<sup>3</sup> Academy of Adoption & Assisted Reproduction Attorneys. (n.d.). *Post-adoption contact agreements*. <https://adoptionart.org/adoption/post-adoption-contact-agreements/>

# What to Consider When Creating a PACA

The table below from Adoption & Beyond<sup>4</sup> highlights important legal requirements and communication expectations to include when drafting a PACA:

Legal Requirements	Communication Expectations
Frequency and duration of contact	Method of communication (phone, e-mail, texting, etc.)
Legal rights and responsibilities	Guidelines for in-person visits
Restrictions or limitations	Frequency of communication

A quick web search can also yield additional guidance from various private adoption agencies. These agencies encourage families to carefully think through questions about types of communication/visits, frequency of communication, and any additional expectations. When drafting a PACA, it is also essential to consider that life circumstances can change, so there should be flexibility for adjustments over time.

# Who Benefits

All three of the primary parties involved in an adoption—the child, the adoptive parents, and the birth parents—can benefit from a well-thought-out PACA, because it promotes positive interactions. According to the US Department of Health and Human Services’ Children’s Bureau, children can benefit in many ways from maintaining contact with their birth families. These benefits range from developing a deeper sense of their own identities and preserving a connection to their birth culture and heritage to the very practical ability to access genetic and medical information.<sup>5</sup> For adoptive parents, clearly defined, ongoing contact can help them have more positive feelings towards their child’s birth parents. And birth parents can gain peace of mind by knowing how their child is doing. This can also help mitigate the grief and loss that can accompany placing a child for adoption.

There is substantial research supporting the notion that post-adoption contact is beneficial. A review of the evidence, including results from 49 studies, finds that there is no one “right” way for contact to occur, and it should be individualized for each child and family. “The key question is not whether or how much contact has a positive impact on children and young people’s well-being, but how best to facilitate positive experiences and the meaningful involvement of the people who matter to the child.”<sup>6</sup> Though UK-specific, there is a recently formed [resource hub](#) that

<sup>4</sup> Aye, S. (n.d.). *Crafting post-adoption contact agreement templates*. Adoption & Beyond. <https://adoption-beyond.org/crafting-post-adoption-contact-agreement-templates/>

<sup>5</sup> Child Welfare Information Gateway. (2019). *Helping your adopted children maintain important relationships with family*. U.S. Department of Health and Human Services, Administration for Children and Families, Children’s Bureau. <https://www.childwelfare.gov/resources/helping-your-adopted-children-maintain-important-relationships-family/>

<sup>6</sup> Iyer, P., Boddy, J., Hammelsbeck, R., & Lynch-Huggins, S. (2020). *Contact following placement in care, adoption, or special guardianship: Implications for children and young people’s well-being* (Evidence review). Nuffield Family Justice Observatory. [https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/05/nfjo\\_contact\\_well-being\\_summary.pdf](https://www.nuffieldfjo.org.uk/wp-content/uploads/2021/05/nfjo_contact_well-being_summary.pdf)



includes “research briefings, practice guides, videos, case studies, and reflective exercises organised into key topic areas” that can provide useful suggestions, perspectives, and frameworks for thinking about questions around contact.

## Are PACAs Court Enforceable?

As Freeby and Cox explain in an earlier *Adoption Advocate* focused on legal issues surrounding PACAs, enforceability varies greatly from state to state.<sup>7</sup> Some states limit the enforceability of such agreements based on factors such as the type of adoption, the age of the adoptive child, or the nature of the contact. For example, Utah and Vermont limit the enforceability of agreements to adoptions from foster care. Wisconsin limits enforceability to adoptions by stepparents and relatives. Indiana limits enforceability to adoptions of children ages two and older.<sup>8</sup>

AdoptMatch shares a [map](#)<sup>9</sup> of open adoption agreement laws by state (they use this term interchangeably with “post-adoption contact agreements”), breaking states down into the following categories:

- States with laws making open adoption agreements enforceable
- States with laws making open adoption agreements unenforceable

- States that make open adoption agreements enforceable only in certain circumstances
- States with no laws about open adoption agreements

As a case study, a law firm in Pennsylvania provides specific examples of how the process works in their state where PACAs are created by statute. They explain that, in Pennsylvania, there are three general terms and conditions to any PACA: 1) the court must approve it or it is not enforceable, 2) various parties (depending on jurisdiction) can return to court to request modifications or termination of the PACA, and 3) even if a party is found in contempt of a PACA, the adoption is not nullified. The PACA can be enforced in several ways: 1) Petition for Contempt, 2) Petition to Modify, and 3) Petition to Terminate.<sup>10</sup>

## Conclusion

Overall, a PACA can provide peace of mind to both adoptive parents and birth parents by making the potentially vague idea of “contact” much more concrete. It can also be a helpful form to ensure all parties are communicating clearly. While there are no guarantees, especially in states where PACAs are not enforceable, having the document in place can initiate a framework for the relationship between the adoptive family and birth family. With the best interest of the child always at the forefront of mind, a PACA can help guide the relationship moving forward.

<sup>7</sup> Freeby, E., & Cox, H. (2018). *Post-adoption contact agreements*. National Council For Adoption. <https://adoptioncouncil.org/publications/adoption-advocate-no-122/>

<sup>8</sup> Child Welfare Information Gateway. (2019). *Postadoption contact agreements between birth and adoptive families*. U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau. <https://www.childwelfare.gov/resources/postadoption-contact-agreements-between-birth-and-adoptive-families/>

<sup>9</sup> AdoptMatch. (n.d.). *Open adoption agreement laws by state*. <https://www.adoptmatch.com/open-adoption-rules-post-adoption-agreement-by-state>

<sup>10</sup> Willig, Williams & Davidson. (n.d.). *What is a Post Adoption Contact Agreement and how does it work?* <https://www.wwdlaw.com/what-is-a-post-adoption-contract-agreement-and-how-does-it-work/>

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## About Elisa Rosman



Elisa has spent nearly two decades working as a consultant on issues around early care, education, and adoption. She has worked on a variety of projects, including grant writing, performing evaluation project management, advising on a replication of an Early Head Start model, and writing adoption-related articles. Elisa has a particular interest in translating research and information to make it most useful for families and practice. Elisa currently serves as the Evaluation Consultant for Formed Families Forward, a nonprofit dedicated to supporting foster, kinship, and adoptive families of children and youth with disabilities and other special needs in Northern Virginia. She earned her MA in infant and early childhood special education from George Washington University and her PhD in Community Psychology from New York University. She is mom to 4, including 3 children adopted from China.

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