

5

CONDUCTING A DISCLOSURE SEARCH

TABLE OF CONTENTS

- 5.1 Introduction**
- 5.2 Legal Citations**
- 5.3 Conducting a disclosure search**
- 5.4 Type of Information to be disclosed-Non identifying information**
 - 5.4.1 Definition of non identifying Information
 - 5.4.2 Types of non identifying information
 - 5.4.2.1 Critical medical information
 - 5.4.2.1.1 Releasing critical medical information
 - 5.4.2.2 Letters and pictures
 - 5.4.3 Editing adoption records for non identifying information
 - 5.4.4 Releasing non identifying information
- 5.5 Type of information to be disclosed-Identifying information**
 - 5.5.1 Who may have access to identifying information
- 5.6 When a local agency receives a request for disclosure**
 - 5.6.1 Contact from an adult adoptee
 - 5.6.2 Contact from birth parent or adult birth sibling
 - 5.6.3 Contact from Adoptive Parent
 - 5.6.4 Adding information to the closed adoption record
- 5.7 Agency Responsibilities in a Disclosure Search**
- 5.8 Searching for Information**
 - 5.8.1 Expediting a Search
- 5.9 Completing the Report of Inquiry**
 - 5.9.1 Agency recommendations for disposition
 - 5.9.2 Waiting for the final disposition

5.9.3 *Final disposition*

5.10 Charging a fee

5.10.1 Fee schedule for adoption searches

5.10.2 Determination of direct costs

5

CONDUCTING A DISCLOSURE SEARCH

5.1 Introduction

At the finalization of an adoption, the law requires that the record be preserved for the adoptee's future benefit. The VDSS Permanency Unit has primary responsibility for maintaining adoption records and administering the release of information from those records. CPAs also have a responsibility in releasing information from closed adoption records.

The VDSS Permanency Unit keeps a permanent record of all adoptions finalized in Virginia since July 1, 1942.

Based on the Code of Virginia, the adult adoptee and various other members of the Adoption Triad, may have access to information in the closed adoption record when certain criteria are met and an application for disclosure is submitted to the VDSS Permanency Unit. The application for disclosure may request the release of non identifying information or identifying information from the adoption record.

5.2 Legal Citations

The Code of Virginia in Chapter 12, §§ [63.2-1245](#) through [63.2-1248](#) provides law on permanent record retentions, disposition of reports, and disclosure of birth family information.

5.3 Conducting a disclosure search

Upon receiving an application for disclosure, the [VDSS Adoption Disclosure Specialist](#), on behalf of the Commissioner of Social Services, will request that the agency initially involved in the applicant's adoption conduct the search. If the private agency is no

longer in operation, the LDSS or a private LCPA may be asked to conduct the search. The Permanency Unit mails a Letter of Appointment, a copy of the Application for Disclosure, and the adoption record to the searching agency. A copy of the Letter of Appointment is also sent to the adoptee. Once the agency receives the Letter of Appointment, they are authorized to begin working on the search case.

The agency should report the results of its search to the Commissioner no later than **90 days** from the date of the Letter of Appointment. If the searching agency needs additional time for the search, they may request in writing a request for an extension to the [VDSS Adoption Disclosure Specialist](#).

5.4 Type of Information to be disclosed-Non identifying information

5.4.1 Definition of non identifying Information

Non-identifying information is generally defined as that information which does not identify the birth family. Trace information is any information that could lead to the identification of the birth family and shall be edited from the record. All information in a file must be reviewed carefully to ensure that no information that would provide a “trace” to the birth family is released.

Non-identifying information from the adoption record can be released to the adoptive parents, the adoptee who is 18 years of age or older, and the CPA that is providing services to the adoptee and/or adoptive parents. It can be also be released to doctors, psychiatrists, or psychologists providing services to the adoptee, and attorneys designated by the adult adoptee. Adoptive parents have access to non-identifying information from the adoption record any time after the entry of the final order of adoption.

In the event that the adult adoptee also wants any information on the adoptive parents (e.g., the home study or report of investigation), the adult adoptee must have a notarized consent from each adoptive parent on whom the information is requested or a death certificate for that person.

5.4.2 Types of non identifying information

5.4.2.1 Critical medical information

Virginia law provides for the sharing of critical medical information between the adult adoptee, the birth parents, adult birth siblings and the adoptive parents. In any case where a physician or licensed mental health provider submits a written statement, in response to a request from the adult adoptee, adoptive parent, birth parent, or adult birth siblings indicating that it is critical that medical, psychological or genetic information be conveyed; the statement shall state clearly the reasons why this is necessary. The agency that does the investigation shall make an attempt to inform the adult adoptee, adoptive

parents, birth parents or adult birth siblings, whichever is applicable, of the information. It is the responsibility of the VDSS to provide information from the adoption record if necessary to facilitate the search. Confidentiality of all parties shall be maintained by the agency which means that identifying information cannot be shared.

5.4.2.1.1 Releasing critical medical information

If an adult adoptee, birth parent, birth sibling or adoptive parent contacts an agency with critical medical information to share with other members of the adoption triad, the worker should advise the client of the process and requirements for that to occur.

The requirements are as follows:

- *The client needs to request his physician or licensed mental health provider to send the agency a letter, stating that it is critical that medical, psychological, or genetic information be conveyed to the other party. The letter must state the reasons why this is necessary.*
- *Upon receipt of the doctor's letter certifying the necessity to share critical medical information, the worker should attempt to locate the other family member(s).*
- *The worker can contact the adoptee directly if there is critical medical information from the birth family.*
- *The worker can share the medical diagnosis and related information, but cannot release names, locations, or other identifying information to the other party.*

5.4.2.2 Letters and pictures

If the agency that was involved in the adoption is willing, the law allows the agency to act as an intermediary for the purpose of exchanging pictures and non-identifying information, such as letters, with the adoptive parent(s) and birth parent(s) when the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such an arrangement can occur when at least one of the adoptive parents and one of the birth parents agree in writing. Such an agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the adult adoptee.

The adoptive parent(s) and birth parent(s) shall both sign a written agreement for the exchange of information and pictures. The CPA may use the sample contract as recommended by the VDSS Permanency Unit in the adoption forms. The written agreement should be notarized. The agency does not have

to provide this service. This service is to be provided if the whereabouts of the adoptive parent(s) and birth parent(s) are readily accessible. The words "readily accessible" eliminate the need for the agency to conduct a search such as those conducted when an adult adoptee applies for identifying information. A review of generally available resources, such as the telephone book or a current or recent location contained in the record satisfies the requirement.

5.4.3 Editing adoption records for non identifying information

Adult adoptees have the right to request and receive non-identifying background information about themselves and their birth family from their finalized adoption record. The worker should prepare the non-identifying information by first making a copy of the adoption record. The worker then closely reviews the copy, checking word for word, to redact any information that would lead to the identity of the birth family.

The following identifying information shall be redacted from the record including any "trace" information that may lead to the identity of the biological family.

- *Adoptee's original surname (can leave in first and middle names)*
- *Names and addresses of birth family*
- *Name(s) of place(s) of employment for birth parents or other relatives (if military, delete branch i.e. navy, army)*
- *Names of schools or colleges attended by birth parents or other relatives*
- *Month, day of birth of birth parents and birth siblings (can leave in year)*
- *Place of birth parents and birth siblings (delete both city and state)*
- *Social security number of birth parents and other relatives*
- *Month and day of graduations, births, deaths, divorces of birth parents and other family members*
- *Name and location of maternity home*
- *Name and address of churches attended by birth family*
- *Name and address of doctors (including OBGYN) of birth parents*
- *Names and addresses, etc., of any individuals who knew a member of the birth family; this could include the doctor who delivered the child, foster parents with whom the child lived, or any third party involved in the placement*

- *Names of agencies involved with the birth parents, except the child-placing agency*
- *Any information in the record on other adoptees and foster children (if other adoptees in the same adoptive home as the one requesting information are birth siblings, their names can be left in)*
- *Locality and state on birth parents consent notarization (if different from location of circuit court where adoption is filed)*
- *On requests from adult adoptee, edit the home study on the adoptive parents unless the adoptive parents are deceased (a death certificate is required) or have given written notarized consent for the release of the home study. If one of the adoptive parents consents to the release of the home study or is deceased, but the other parent does not consent, information on the parent who does not give consent must be deleted. The following reports/documents are considered to be part of the home study on the adoptive parents.*
 - *Any report that only contains information on the adoptive family such as an Adoptive Home Study and any questionnaire completed on themselves by the adoptive parents*
 - *Reference letters on the adoptive parents*
 - *Medicals and psychologicals on the adoptive parents*
 - *AREVA Family's Registration Form*
 - *Criminal record checks on the adoptive parents*
 - *Child protective service checks on the adoptive parents*
 - *The section of the Report of Investigation or Home Study Report entitled "Suitability of the Petitioners to Adopt."*
 - *Any paragraph in the Report of Visitation that deals solely with the adoptive parents*
 - *The portion of the Commissioner's Confidential Report form pertaining to the adoptive parents.*

5.4.4 Releasing non identifying information

Non-identifying information cannot be mailed to the adoptee. The adoptee should be told he may pick it up in person at the CPA conducting the search after showing one form of identification to verify his identity. The worker should make a copy of the

identification card and attach it to a receipt for the adoptee to sign, indicating receipt of the non-identifying information.

If the adoptee lives out of the area, he should be told that he may request that a nearby child welfare agency receive the non-identifying information. The adoptee should contact a LDSS requesting this service. Once the adoptee has identified an agency, he shall put this information in writing also including a statement that he authorizes the LDSS or another named party (providing the name of the agency, the doctor, psychiatrist, psychologist, etc.) to receive the non-identifying information. A statement should also be received from the receiving party that they are willing to receive the information on behalf of the adoptee with a copy of one form of identification to verify the identity.

5.5 Type of information to be disclosed-Identifying information

Identifying information is information that identifies the adoptee or birth family. It includes “trace” information that may lead to the identity of the birth family. Identifying information on birth family members is only released when an Application for Disclosure is granted or upon a court order from the circuit court.

5.5.1 Who may have access to identifying information

Virginia law allows adoptees who are 18 or older to make an application for disclosure to the Commissioner.

Birth parents and adult birth siblings may apply for disclosure if the adoption was finalized on or after July 1, 1994, and the adopted person is at least 21 years of age.

Adoptive parents may apply for disclosure if the adoption was finalized on or after July 1, 1994, regardless of the age of the adoptee.

In a parental placement adoption where consent was executed on or after July 1, 1994, the entire adoption record shall be open to the adoptive parents, the adoptee who is 18 years of age or older, and the birth parent who executed the written consent. However any criminal record checks for the adoptive parent(s), which show a criminal record conviction cannot be released.

The Commissioner, through the [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit, has responsibility for deciding whether information from closed adoption records is released. CPAs provide assistance to the Commissioner by conducting searches to locate birth family adoptee members and, if requested by the Commissioner, to share identifying information from the closed record.

5.6 When a local agency receives a request for disclosure

An adoption disclosure search is often initiated with an inquiry to the agency in the form of a telephone call or written correspondence. The adoptee, birth parents, adoptive parents and birth siblings may call when they are interested in doing a search for biological information.

5.6.1 Contact from an adult adoptee

When an adoptee inquires about his rights to access adoption records, the worker shall first verify that it was a Virginia adoption. If the agency is unable to verify the adoption, the agency should refer the caller to the [VDSS Adoption Disclosure Specialist](#). The worker shall inform the adoptee that if a person was adopted in Virginia and is now 18 years or older, he has the right to initiate a search for birth family by filling out an [Adoptee Application for Disclosure](#) form. The worker should explain the process that occurs after the application is completed which is:

- The agency that was involved in the adoption is designated to conduct the search.
- The LDSS is allowed to charge a fee for the search.
- The agency has 90 days to conduct the search. When the search is completed, the agency will send a report to the [Adoption Disclosure Specialist](#) at the VDSS Permanency Unit, recommending whether to grant or deny the disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.
- Applications can be denied if the birth family member is not located, is deceased, or is unwilling to authorize disclosure.
- If the adoptee's application is denied, the adoptee can petition the circuit court for disclosure. Virginia residents can petition the circuit court in the locality in which they reside; all others shall petition the Richmond City Circuit Court.

5.6.2 Contact from birth parent or adult birth sibling

For adoptions finalized after July 1, 1994, when the adult adoptee is 21 years or older, the birth parents and adult birth siblings may apply to do a search.

When a birth parent or adult birth sibling inquires about his rights to access adoption records, the worker shall first verify that it was a Virginia adoption. If the agency is unable to verify the adoption, the agency should refer the caller to the [VDSS Adoption Disclosure Specialist](#). The worker shall inform the family member that if a person had a finalized adoption after July 1, 1994 and the adult adoptee is now 21 years of age or older, the family member has the right to initiate a search for the

adoptee by filling out a [Birth Parent Application for Disclosure](#) or the [Adult Birth Sibling Application for Disclosure](#). The worker should explain the process that occurs after the application is completed which is:

- The agency that was involved in the adoption is designated to conduct the search.
- The LDSS is allowed to charge a fee for the search.
- The agency has 90 days to conduct the search. When the search is completed, the agency will send a report to the [Adoption Disclosure Specialist](#) at the VDSS Permanency Unit, recommending whether to grant or deny the disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.
- Applications can be denied if the adoptee is not located, is deceased, or is unwilling to authorize disclosure.
- If the birth parent or adult birth sibling application is denied, the birth parent or adult birth sibling can petition the circuit court for disclosure. Virginia residents can petition the circuit court in the locality in which they reside; all others shall petition the Richmond City Circuit Court.

5.6.3 Contact from Adoptive Parent

The adoptive parent of a minor child may request identifying information on the birth family on any adoptions finalized on or after July 1, 1994.

When an adoptive parent inquires about his rights to access adoption records, the worker shall first verify that it was a Virginia adoption. If the agency is unable to verify the adoption, the agency should refer the caller to the [VDSS Adoption Disclosure Specialist](#).

The adoptive parent should complete an [Adoptive Parent Application for Disclosure](#).

The worker should explain the process that occurs after the application is completed which is:

- The agency that was involved in the adoption is designated to conduct the search.
- The LDSS is allowed to charge a fee for the search.
- The agency has 90 days to conduct the search. When the search is completed, the agency will send a report to the [Adoption Disclosure Specialist](#) at the VDSS Permanency Unit, recommending whether to grant or deny the

disclosure of identifying information. Upon a showing of good cause, the Commissioner shall disclose the identifying information.

- *Applications can be denied if the birth family is not located, is deceased, or is unwilling to authorize disclosure.*
- *If the adoptive parent application is denied, the adoptive parent can petition the circuit court for disclosure. Virginia residents can petition the circuit court in the locality in which they reside; all others shall petition the Richmond City Circuit Court.*

5.6.4 Adding information to the closed adoption record

Birth parents, birth siblings and birth family members have the right to send letters to be included in the adoptee's adoption record. Sometimes birth family members will call or write to provide updated information for the adoption record. The CPA should explain the rights of the adoptive parents and the adult adoptee for obtaining information from a closed adoption file. This will enable the family to understand the importance of sending letters to update the adoption record of current address and telephone number. The worker can update the information in an agency file and at the state level by advising the [Adoptions Disclosure Specialist](#), VDSS Permanency Unit of the updates.

5.7 Agency Responsibilities in a Disclosure Search

Upon receipt of the Application for Disclosure from the adult adoptee, birth parent, birth sibling or adoptive parent, the [Adoption Disclosure Specialist](#) in the Permanency Unit sends a Letter of Appointment, a copy of the Application for Disclosure and a copy of the adoption record to the agency that will be conducting the search.

Upon receiving a Letter of Appointment, the designated agency conducting the search shall:

- *Attempt to locate and advise the adoptee, adoptive parent(s) and birth family member(s) about whom the applicant wants identifying information.*
- *Use discretion in contacting relatives or persons who know the birth parent/sibling and can aid in the search. The confidential nature of the inquiry is not to be revealed unless it is clear from the record or other information that the contacted person knows the circumstances surrounding the child's placement and adoption.*
- *Conduct the search within 90 days of receiving the Letter of Appointment.*
- *Consider obtaining a copy of the child's original birth certificate or hospital records of the child's birth. For children born in Virginia, the [Adoption Disclosure](#)*

Specialist may assist the agency in obtaining a copy of the birth certificate from the Bureau of Vital Statistics if the agency has been unable to obtain a copy or assist in obtaining a court order for the release of hospital birth records.

- *Send a Report of Inquiry to the Commissioner, describing the results of the attempt to locate and advise the birth family member(s) of the Application for Disclosure.*
- *Submit a report in the format prescribed by the Commissioner and do not include identifying information on the birth family. No identifying information is to be disclosed to the adoptee, the family, or any attorney representing the parties without proper authorization from the Commissioner.*
- *Document the resources used to locate the birth family member(s) in the agency's report in those cases where agency efforts were unsuccessful.*
- *Provide updated information in the agency's report if the birth family member(s) about whom the adoptee wants identifying information can be located. The agency's report shall include updated non-identifying information about the birth parent. The report should also indicate that parent's wishes regarding having his/her identity disclosed and being contacted by the adoptee.*
- *Include in the agency's report a recommendation regarding disclosure based on the findings.*
- *Include a statement if there is a fee. The agency's report shall indicate the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.*
- *Provide the identifying information to the adoptee, if disclosure of identifying information is granted by the Commissioner.*

5.8 Searching for Information

There is no correct sequence of methods that work for every case. A combination of search techniques should be tried and use of Accurint is permissible. A worker should consider multiple avenues to find information for the search and may have to go back a generation or more.

- *Review the entire adoption record, from start to finish, gathering all information possible, looking for clues about the people being searched for, paying close attention to detail, and noting any piece of information that could be significant. Workers should note full names (including variations in spellings), nicknames, addresses, relatives' names, dates of birth, professions or information on employment, locations mentioned (such as another state), a physical description*

of the birth parents if mentioned, any hobbies they may have had, and handwritten notations in the margins or in the file. Even information that may seem trivial may be significant if it will assist the worker in the search.

- *As most searches are initiated by the adult adoptee, contact the adoptee. To assist in gathering information from the adoptee, a questionnaire format will assist the worker in staying focused and gathering information that may be helpful for the search. The following questions are a guide:*
 - *What has prompted you to search? What do you hope to find?*
 - *Describe your relationship with your family, both your adoptive family and any present family structure.*
 - *How and when did you find out you were adopted? How was the subject handled by your family?*
 - *What family members or friends are aware you are doing a search? What was their reaction to the news?*
 - *What information about you would you share with your birth parents?*
 - *If we are able to locate your birth relatives, but they are unwilling to have their identity disclosed, what information would you like to obtain from them? (List specific questions that the adoptee would like to have asked.)*
 - *If we are able to locate your birth relatives, and they are willing to have contact with you, how would you prefer your first contact to occur (e.g., via phone, email, letter, face-to-face)?*
- *If the search is being conducted trying to locate the adult adoptee for the birth parent or birth sibling application for disclosure; contact the birth parent or adult birth sibling developing questions that are similar in nature to those suggested in the above guide.*
- *Try to locate and search any in-house files that are related to the adoption record.*
- *Check to see if there are any other files related to the case. These could be siblings' records or records that are now in agency archives. Search these records.*
- *Search any logs or books that your agency may have to track inquiry calls made by birth family, adoptees, or adoptive parents.*
- *Check in-house databases.*

- *Initiate search in Accurint.*
- *Additional searchable databases:*
 - [PIPL](#)
 - [Ancestry.com](#)
 - [RootsWeb](#)
 - [411.com](#)
 - [USGenWeb Project](#)
 - [All Area Codes](#)

5.8.1 Expediting a Search

There may be an occasion where a search should be expedited. An example of this would be for a medical emergency or other situation of an emergency nature. Such issues should be brought to the attention of the [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit, so the search process can be expedited prior to the final disposition

5.9 Completing the Report of Inquiry

The agency shall send a Report of Inquiry to the [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit describing the results of the attempt to locate and advise the adoptee, birth family, adoptive family and adult birth siblings depending on the Application for Disclosure.

- *The agency's report shall be in the format prescribed by the Commissioner and shall not include identifying information on the birth family.*
- *No identifying information should be disclosed to the adoptee, birth family parents, or birth family members without proper authorization from the Commissioner.*
- *Resources used to locate the birth family member(s) should be fully documented in the agency's Report of Inquiry in those cases where agency efforts were unsuccessful.*
- *If the birth family member(s) about whom the adoptee wants identifying information can be located, the Report should also state the biological parent's wishes regarding having his identify disclosed and being contacted by the adoptee.*

- *The agency's Report of Inquiry shall include a recommendation regarding disclosure based on the findings including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family.*
- *If there is a fee, the agency's report shall include a statement indicating the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.*

5.9.1 Agency recommendations for disposition

- **Contact Wanted.** *If contact is wanted, the worker should state in the report that the person was found and wants contact, or consents to the disclosure of their identifying information. The worker should state that the agency recommends the release of identifying information*
- **Denial.** *If contact is not wanted, the report should state that the person was found but does not consent to the disclosure of his identifying information. The worker should state that the agency recommends that disclosure of information be denied.*
- **Birth Father Unknown.** *If the worker cannot find the birth father's name in the adoption record, then the report should state that the birth father is not named, or not identified. The worker should state that disclosure of information on the birth father be denied.*
- **Birth Siblings.** *If birth parents had no other children, the worker should state that there are no adult birth siblings, or no known adult birth siblings. If the birth parents had other children that are currently minors, under the age of 18, they should be mentioned in the report, however, the adoptee is only able to receive information about adult birth siblings.*

The birth parents have the right to decide whether they want to be the ones to tell their other children about the adoptee first, or if they are comfortable with letting the adoptee contact birth siblings directly. If the birth parent is comfortable letting birth siblings have direct contact, the birth siblings should be contacted if the birth parent agrees, then the worker should recommend that the sibling's information be released to the adoptee.

If the birth parent is not comfortable with direct contact but wants to notify the other children first; the worker should state that disclosure of information on the adult birth siblings be denied at this time.

- **Ongoing Search.** *If one person is found and wants contact, but another person inquired about in the adoptee's application is not yet found, then the*

report should state that the search disclosure is granted for one but the search for the other person is continuing.

- **Refer to Circuit Court.** If the worker has learned that a person being searched is deceased or cannot give consent due to mental incapacity, the worker should make the recommendation in the report that the adult adoptee be referred to the Circuit Court. Also, when submitting the report to the [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit, the worker should include documentation found, indicating that the person died or is mentally incapacitated.
- **Search No Longer Wanted.** When an adoptee who applied to do a search changes his mind and no longer wishes to continue with the search, the worker should make the recommendation that the search case be closed.
- **Consult with the Permanency Unit.** Depending on circumstances discovered during the search, the worker will need to consult with the [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit for direction about what would be appropriate for the report.

5.9.2 **Waiting for the final disposition**

If an adoptee, birth parent or birth sibling has an open case with the agency, he might call to obtain a status on the case. The worker should advise the applicant that work is being done on the search (e.g., phone calls made, letters sent out) and that the worker is continuing to look for other leads on the case. If asked, the worker may provide to the party search resources. [International Soundex Reunion Registry](#). It is the largest and oldest registry available.

The Child Welfare Information Gateway also has factsheets of information and resources that can be provided to birth parents, adopted persons, and others interested in learning more about the process of searching for birth relatives: [Searching for Birth Relatives, Adoption Packet 3](#). This information comes in both an English and Spanish version.

5.9.3 **Final disposition**

The Commissioner makes the final decision about the release of identifying information after a review of the Report of Inquiries. The [Adoption Disclosure Specialist](#) in the VDSS Permanency Unit will send the CPA and the Adoptee, Birth Parent, Adult Birth Sibling, or Adoptive Parent a Letter of Final Disposition.

If the final disposition indicates that the application for disclosure is granted, the CPA shall share the identifying information with the adoptee, birth parent, adult birth sibling or adoptive parent.

If the final disposition is to deny the application for disclosure, the adoptee, birth parent, adult birth sibling or adoptive parent must be told of the right to file a petition with the circuit court.

The petition is filed in the Richmond City Circuit Court (which is the court where VDSS is located) if the adoptee lives out of state.

The petition may be filed in the Circuit Court of Richmond City or the circuit court in the locality where the adoptee resides if the adoptee lives in Virginia.

5.10 Charging a fee

Virginia law allows fees to be charged for adoption searches.

Fees are to be determined based on income and family size; and indirect costs to the agency or average costs. The fee schedule is established by the State Board of Social Services.

5.10.1 Fee schedule for adoption searches

The formula is as follows:

The LDSS fiscal manager should calculate an indirect cost factor that covers expenses other than the direct worker's salary and benefits (such as overhead expenses).

The LDSS will record the time the worker spends providing the service. The time spent is to be multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits) and the indirect costs.

Determine applicant's family size. Include all persons for whom the applicant and his or her spouse are responsible.

Determine the applicant's gross monthly income. Include all income available to the family. Accept the applicant's declaration of income.

Determine the applicant's percent of median income using the [Slate median income chart](#) issued annually. If income falls between two percentages, use the lower figure.

Reduce or waive the fee if the LDSS finds circumstances that affect the applicant's ability to pay, such as heavy debt, unusual medical or educational expenses, or heavy financial support of relatives.

The LDSS shall report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds shall be

adjusted to reflect the state and federal share of income collected. Using the percentage of fee scale shown below, determine the fee assessed.

<u>Percentage of Median Income</u>	<u>Calculated Fee To Be Charged</u>
50% and below	0% (No charge)
60%	10%
70%	25%
80%	50%
90%	75%
100%	100%

5.10.2 Determination of direct costs

In determining direct costs, the CPA providing the service has the option of using the actual salary and benefits of the worker performing the service, an average of the salary and benefits, or the minimum salary and benefits.

If the actual salary and benefits of the worker performing the service is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging the customer.

If some form of averaging is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed.

The method of averaging, which appears to conform with the intent of the statute which talks about the actual cost of the service, would be to average the actual salaries and benefits of the workers performing the services.

The agency may use 20 hours as an average, multiply this by the agency hourly costs, factor in family size and income, and charge the applicant that amount in advance.

If the search is completed in less than 20 hours, the agency would return the unexpended funds.

If the search is not completed in 20 hours, the agency should ask the applicant if the agency should continue the search at the worker's hourly cost (written permission from the applicant is mandatory) or the agency can continue the search but not charge the applicant more than the initial estimated fee which is based on 20 hours of work (this is an option because guidance allows an agency to recommend waiving all or part of the fee in unusual circumstances).