

# Avoiding and Defending Against Allegations of Child Maltreatment

National Foster Parent Association  
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## **I. What are Allegations of Child Maltreatment?**

- a. What are allegations of child maltreatment?
- b. Relationship of agency/government foster home-foster parent regulations to allegations of child maltreatment.
- c. Relationship of regulatory restraints on discipline, (such as prohibition of corporal punishment), to allegations of child maltreatment.
- d. Disclosures to foster parents about previous foster parents by foster children and mandatory reporting.

## **II. Possible Consequences of Allegations of Child Maltreatment**

- a. Removal, temporarily or permanently, of a foster child.
- b. Civil proceedings for child abuse or neglect.
- c. Criminal prosecution.
- d. Even if fabricated or not proven, the foster parent's name can be placed on a "child protection registry".
- e. Delay in, or prevention of, adoption of, foster child or any child.
- f. Revocation of or refusal to renew foster parent license.

- g. Civil action for damages.
- h. Affect on occupational licensing.

### **III. Avoiding Allegations**

- a. There is no way to totally insulate oneself from allegations
- b. Document examples of or patterns of lying or fabrications by foster child
- c. Request information on child's history of alleging child maltreatment by adults/foster parents
- d. Request information on the child's past behavioral patterns and emotional well being
- e. Report unusual incidents
- f. The importance of contemporaneous notes

### **IV. The Civil Allegation Process-Child Protection Registry**

- a. Reporting child maltreatment
- b. Are you required to report yourself?
- c. The investigation
  - i. Questioning the child
  - ii. Cooperate or not?
  - iii. Search warrants & foster home status
  - iv. Get a lawyer? Don't get a lawyer?
  - v. "What are they looking for"?
  - vi. Closure to the investigation
- d. Findings: The meanings of such term as: founded, unfounded, substantiated, unsubstantiated, inconclusive, ruled out
- e. Informal and mandatory meetings
- f. Administrative Hearings
  - i. Burdens of proof
  - ii. Advocacy strategies and techniques
  - iii. Discovery
  - iv. Settlement
  - iv. Expert witnesses
  - v. Sources of law
- e. Expunging and purging names from the child protection registry

### **V. Child Abuse and Neglect Proceedings**

- a. The investigation
- b. Papering the case
- c. Initial Hearing
- d. Trial: Findings and Conclusions
- e. Disposition

**VI. Criminal Proceedings**

- a. The investigation
- b. A “right” not to be framed: The *Devereaux* Case
- c. Arrest
- d. Trial
- e. Pardons and expunging convictions

**V. What to do if You are the Subject of an Allegation**

- a. When to get an attorney.
- b. What can the placing agency do for you?
- c. What is the investigation like? Do you talk to the investigators?
- d. What are your obligations to the placing agency?
- e. Insurance, indemnification and the payment of legal fees.

**VI. Conclusion/Questions**

# Legal Rights of Foster Children, Foster Parents, Siblings and Others

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## **I. Introduction to the Foster Care System**

## **II. Foster Children**

- a. Who makes decisions for foster children?
  1. The Agency (A Social Worker)
  2. The Court (A Judge)
  3. The Lawyer-Court Appointed Special Advocate -Guardian *ad Litem*
  4. The Biological Parent(s)
  5. The Foster Parent(s)
  6. The Foster Child
- b. What are "children's rights"?
- c. Do foster children have the same, more, fewer, or different rights than other children?
- d. Foster children and their participation in the court process
- e. Reunification and permanency

- f. Religious Issues
- g. Protection against harm
- h. Gender identity issues
- i. Privacy
- j. Clinical (medical treatment) trials
- k. Special Juvenile Immigrant Status (SJIS)

**III. Foster Children: Emancipation and Aging Out**

- a. Developing legal trends
- b. Creating new rights

**IV. Foster Parents**

- a. Contracts and agreements with the placing agency
- b. Authority over foster children
- c. Foster Parent as Advocate: The Treatment Team
- d. Foster parents' rights statutes
  - 1. Access to information
  - 2. Right of participation
- e. Procedural rights under Adoption and Safe Families Act and analogous state laws
- f. Preventing the removal of foster children: Are We Family?
- g. Preferences for adoption placement
- h. Special education and surrogate parents
- i. Independent contractor, agent and "State actor" status

**V. Siblings**

- a. The relationship rights of siblings
- b. Judicial opinions regarding siblings rights to a relationship with one another
- c. Federal law and the U.S. Constitution

**VI. Grandparents**

- a. *Troxel* and its impact
- b. State laws regarding grandparents
- c. Responding to placement opportunities in removal from home situations
- d. Visiting grandchildren in foster care
- e. Surrenders for adoption, termination of parental rights and adoption:  
Impact on grandparent's rights

**VII. Relatives**

- a. Current state of the law regarding rights of relatives.
- b. State laws regarding relatives

**VIII. Biological Parents**

- a. Visiting their children in foster care
- b. Reunification
- c. Participation in major decisions
- d. Religious issues
- e. Placement for adoption and related Issues

**IX. Conclusion**