

Seeking Permanency: ODHS Legal Assistance Staffings

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Agenda



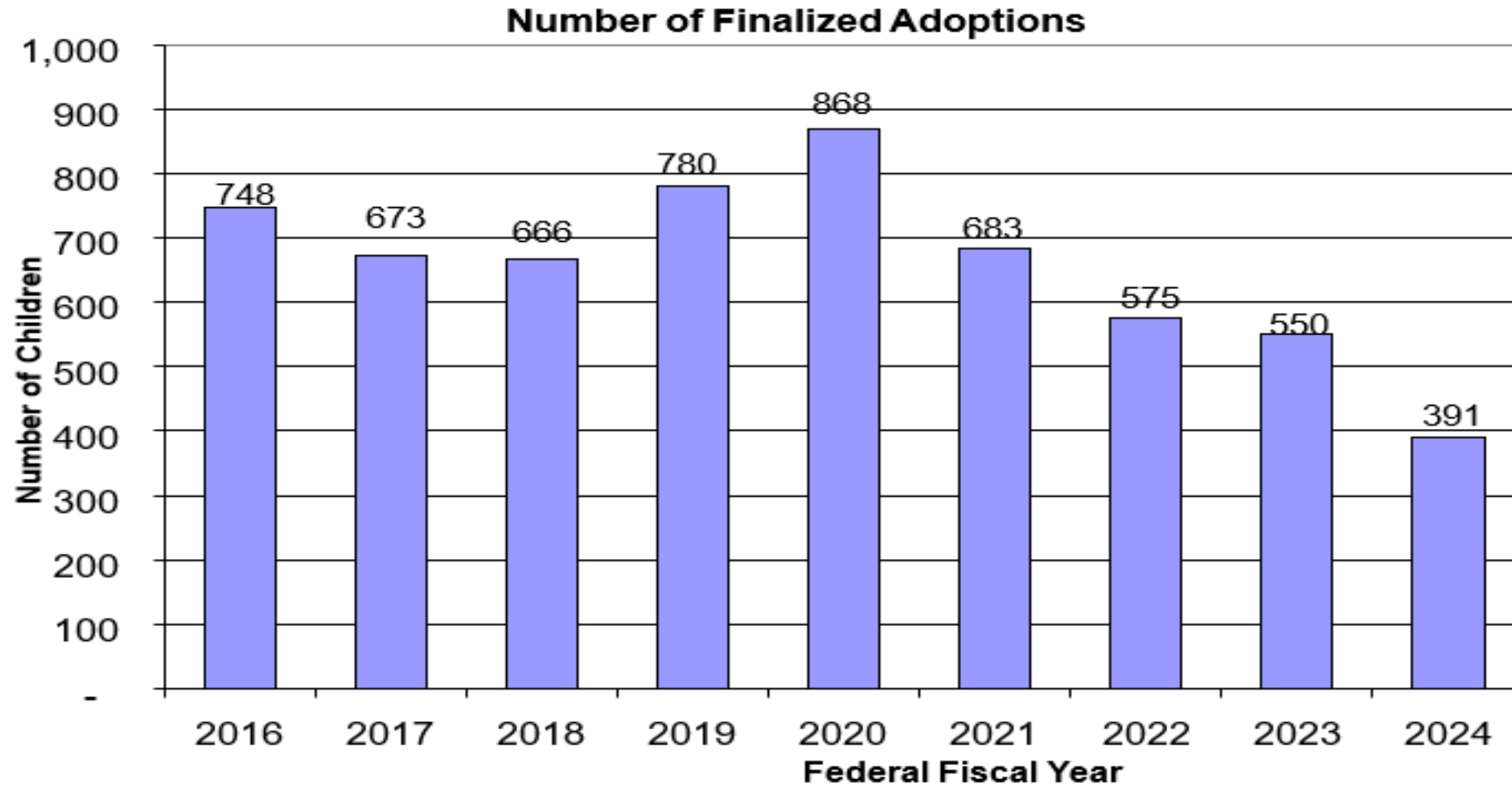
- Adoption & Guardianship Statistics
- Legal Assistance Staffings
- Decision making aspects of LAS
- Agency considerations/policies/OAR's when looking at permanency through adoption or guardianship
- Differences between LAS and Permanency Committee's
- Mediated agreements

ADOPTION STATISTICS

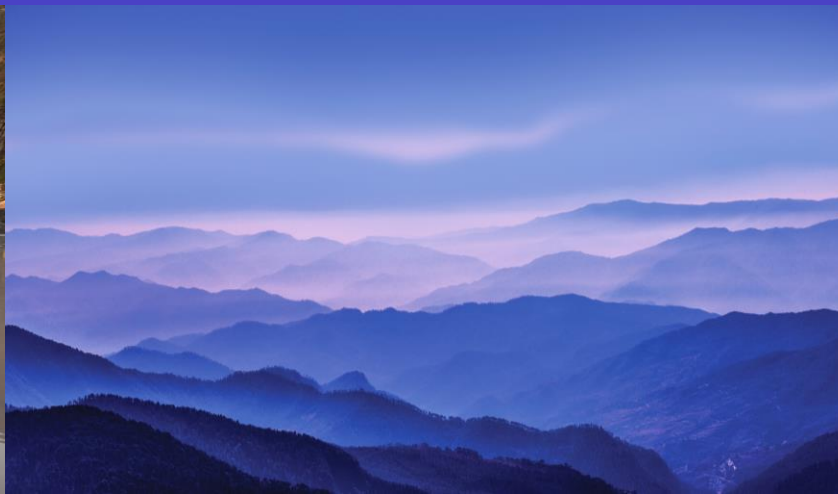
**During 2024, a total of 391 children were
adopted in Oregon.**

Adoption Finalizations 2016 - 2024

*2024 Child Welfare Data Book



How does that compare with guardianships?



***2024 Child Welfare Data Book**

Exits to Guardianship by Year

Period	Number	% Change
2013	313	14.7%
2014	293	-6.4%
2015	328	11.9%
2016	282	-14.0%
2017	447	58.5%
2018	454	1.6%
2019	421	-7.3%
2020	375	-10.9%
2021	356	-5.1%
2022	395	11.0%
2023	403	2.0%
2024	493	22.3%

LAS Staffings...what are they, who can attend and when are they held?



A “Legal Assistance Staffing” is a formal consultation with the Department of Justice. Because this is a meeting with our attorneys, the only people that may participate are DOJ and ODHS.



The expected participants are the current caseworker, their supervisor, an AAG, and the Legal Assistance Specialist. Other ODHS workers such as certifiers and their supervisors may be present as well.



Timing of LAS staffings are case dependent. It’s recommended that cases are staffed when worker/supervisor identify that a return to parent appears unlikely in a reasonable amount of time. Cases can also be staffed early for advice.



Decision making aspects of LAS:

- Legal Sufficiency
- Agency's efforts re: reunification/permanency
- Best Interest (assessments)
- Other guidelines (OAR's/CW Manual)

Evaluation of Legal Sufficiency and Reasonable Efforts

Legal Sufficiency

- DOJ advises if there is legal sufficiency/facts that support an adoption or durable/ permanent guardianship.
 - 2-pronged: A TPR must prove present unfitness AND Best Interest.
- Review of Jurisdiction and Disposition.
- Review of reasonable/active efforts made by the agency.

Reasonable Efforts

- Review of court ordered services.
- Where/When/Who did we refer parent to court ordered services.
- Review of provider records. Have parents made progress/adjusted their circumstances following engagement in court ordered service?
- Identification of appropriate legal parties (ICWA, Parentage).

Routine Best Interest Discussions at LAS:

- Why is the plan of adoption in this child's best interests?
- How does a case plan of adoption better serve a child's needs verses guardianship?
- Would a durable or permanent guardianship meet the child's needs for permanency? Are there any risks to a guardianship?
- What is the nature and quality of the relationship between the child and birth parents/siblings/extended family/prospective adoptive/guardian resource?
- Does the agency have an identified permanent resource for the child? Status of relative search?
- What expert would testify to child's BI? *Child Specific Evidence* is required.



OAR's directing our work:

OAR 413-110-320 (1) - Adoption is a permanency option that should be considered as part of concurrent plan for all children in substitute care.



OAR 413-110-0320 (4) - Adoption is not the most appropriate plan for every child.



OAR 413-070-0512 (1)(d)(E)(iii) explicitly says Guardianship “may be considered only when there are compelling reasons why adoption cannot be achieved.



OAR 413-110-0330 (3)(d) - Before the Department initiates the permanency plan of adoption, the legal assistance specialist must agree that the plan of adoption is in the best interests of the child and is achievable.

**Dept. of
Human
Services v.
T.M.D., 365
Or 143
(2019):**



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- There is no “preference for” or “presumption” that TPR is in a child’s best interest.
- The assessment of a child’s best interest must be “child-centered”; the court does not consider the effect of termination on the parent.

What do we consider? Adoption verses Guardianship

What plan is in this child's best interest?

Will the case plan impact familiar/sibling relationships?

Will birth parent(s) behaviors undermine a case plan of guardianship?

What are the wishes of the long-term resource? If the relative/resource supports a plan of guardianship that's in the best interest of the child, there may be no reason to rearrange legal relationship by pursuing a TPR.

What happens when a guardianship is created? What happens when child turns 18? Does the child have special needs that will require parental support into adulthood? Will child have connections after the guardianship ends at age 18/21?



How do LAS Staffings differ from Permanency Committee's?

- Permanency Committee is discussed at OAR 413-070-0514 and 413-070-0516. The composition of a committee is more expansive than a legal assistance staffing and includes the child's attorney as well as the assigned CASA, Tribe, and RCWAC member (if applicable).
- A Resource Parent or any other participant that the Case Worker and Supervisor believe can provide meaningful input may be invited to provide information and respond to questions, but they are excused prior to discussion and deliberation.

A Permanency Committee is held when:

A caseworker is seeking approval to change the primary permanency plan to Guardianship, Fit and Willing Relative, or APPLA.

A caseworker is considering the separation of siblings on adoption plans.

A caseworker requests a review of the relationship between a general applicant (person with an Emotionally Significant Relationship) and a child whose permanency plan is adoption.

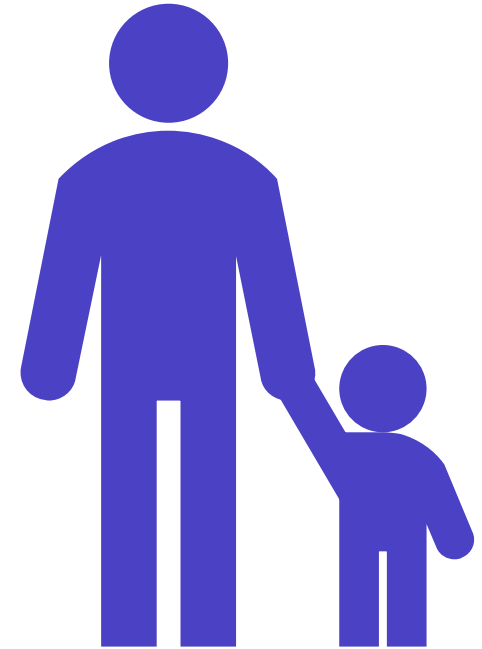
Mediation: Post Adoption and Guardianship Communication Agreements



- Cooperative mediation assists biological parents, biological family members, and adoptive/guardian resources determine how to maintain communication after the finalization of an adoption or guardianship.
- Mediation provides the child and adoptive/guardian family with ongoing communication and access with the biological family.

Mediation

- Mediation must be encouraged and should be referred if it's in the child's best interest, one or both parents wants to participate, and there is a proposed adoptive/guardianship resource willing to participate.
- ODHS Central Office can pay for and arrange mediation between the proposed adoptive/guardian resource and the biological parent(s) and/or relative(s). Branch must be considering only one adoptive or guardian resource.
- Central Office mediation contracts are 4-months in duration. Referrals should be made early to not inadvertently delay adoption or guardianship finalization.
- Mediation is not meant to be used as a part of the negotiations involved in the legal resolution of a case.





THANK YOU!

Questions?

