

SOUL Family

SUPPORT • OPPORTUNITY • UNITY • LEGAL RELATIONSHIPS

A Proposed Legal Permanency Option for Older Youth in Foster Care



FREQUENTLY ASKED QUESTIONS



THE ANNIE E. CASEY FOUNDATION

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ABOUT THE ANNIE E. CASEY FOUNDATION

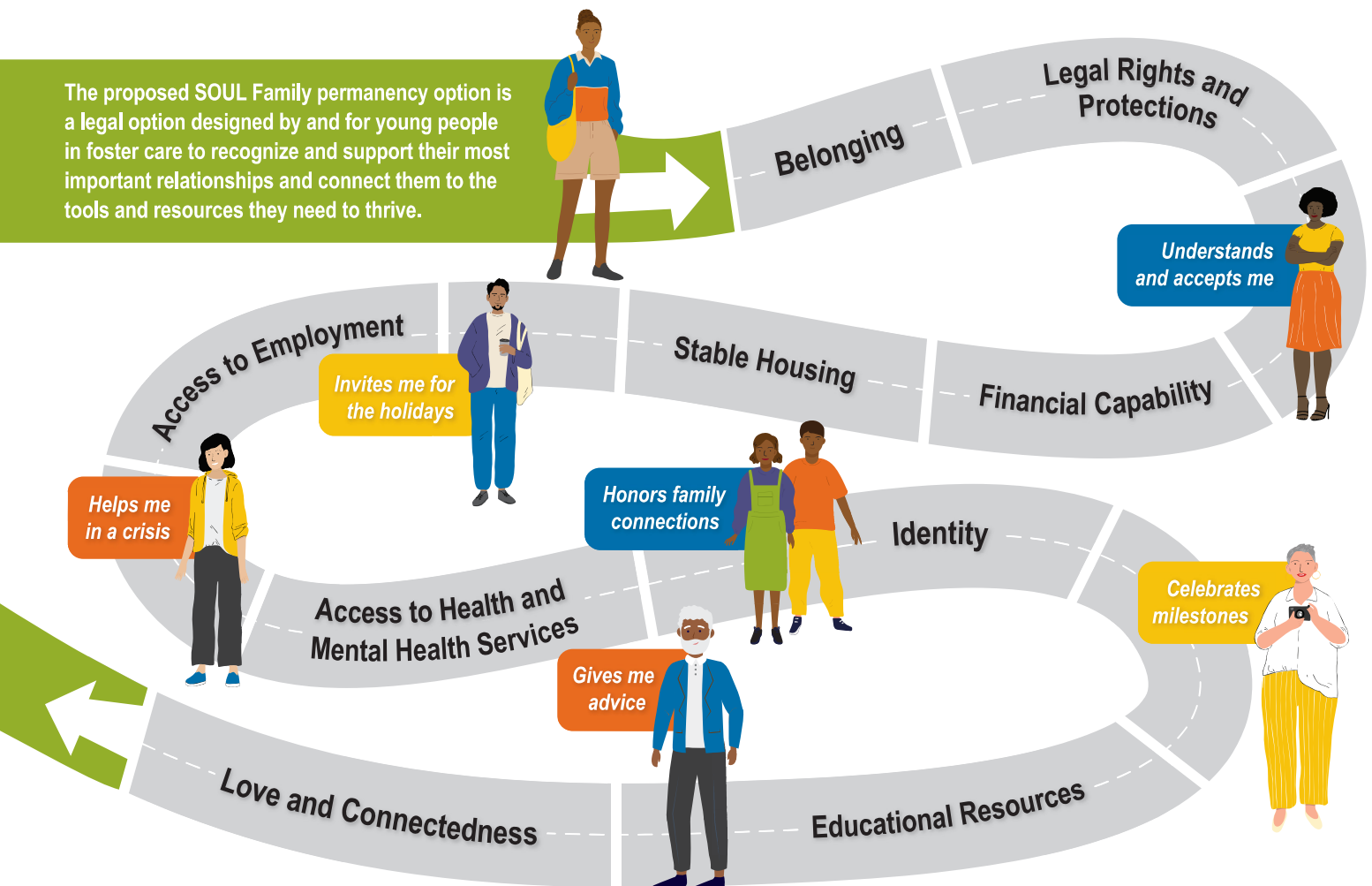
The Annie E. Casey Foundation is a private philanthropy that creates a brighter future for the nation's children and youth by developing solutions to strengthen families, build paths to economic opportunity and transform struggling communities into safer and healthier places to live, work and grow.

For more information, visit the Foundation's website at www.aecf.org.

INTRODUCTION

SOUL Family is a proposed new legal permanency option designed by and for young people who have experienced foster care. To learn more about SOUL Family basics, we recommend that you read this brief introduction first. The following companion guide is designed to answer some additional questions you may have about this new legal option. If you have a question that isn't included here, please feel free to reach out to Doreen Chapman, senior associate, Annie E. Casey Foundation at dchapman@aecf.org.

NAVIGATING THE PATHWAY TO PERMANENT, SUPPORTIVE RELATIONSHIPS



GENERAL OVERVIEW

What is legal permanency and why is it important?

Because no child should have to grow up in foster care, federal law requires states to establish a “permanency plan” for every child in foster care. That term is often used to refer to the desired outcome for a young person’s child welfare case, such as reunification with their birth parents, adoption by kin or a new family, or legal guardianship with a kinship caregiver. While permanency often means “legal permanency” (a permanent family relationship recognized by the law), some social workers and others also use the term to describe “relational permanency” — the way in which adult relationships support a young person’s physical, emotional and social well-being. Permanency, both legal and relational, are different routes to the same goal: providing young people the legally recognized lifelong emotional support that all young people need to grow, thrive and be successful adults.

What are the current pathways to legal permanency?

SOUL Family is a new option that young people are proposing to add to the three legal permanency options that are already available to youth in foster care. The three current options include:

- **REUNIFICATION:** Once young people have been legally removed from their home and temporarily placed in foster care, the first and best option is for them to return to their family after appropriate supports and services have been provided to ensure their long-term safety and stability;
- **LEGAL GUARDIANSHIP:** Guardianship is a legal process that gives a designated caregiver the legal decision-making power over a young person’s education, health care and other daily needs. Unlike adoption, guardianship does not end the legal rights of parents, who may continue to play a role in their child’s life. Guardianship is often used when relative caregivers wish to provide a permanent home for a young person while maintaining their relationships with other family members; and
- **ADOPTION:** Adoption is a legal process that permanently transfers parental responsibility and rights from a child’s birth parents to their adoptive parents. Once an adoption is approved, the young person no longer has a legally recognized relationship to their birth parents, siblings and extended family members.

Is APPLA also considered a legal permanency option?

No. Federal law uses “Another Planned Permanent Living Arrangement” or “APPLA” to describe situations in which the child welfare agency fails to find a permanent family for a young person. In these cases, the young person is allowed to live independently in a “stable, secure living arrangement that includes relationships with significant adults” under the supervision of the child welfare agency until the young person ages out of the foster care system. In some cases, a young person might be placed in Independent Living or “IL”, a program under APPLA, but it is not a permanent arrangement. Most young people and child welfare experts agree that APPLA does not provide young people with the truly permanent lifelong, adult connections they need over the long term.

How does the SOUL Family permanency option work?

SOUL Family will establish primary legal relationships involving you and one or more caring adults that you choose to play a significant caregiving role in your life. The option will be available to young people aged 16 and older. SOUL stands for SUPPORT, OPPORTUNITY, UNITY and LEGAL RELATIONSHIPS, which describe the goals of this new permanency option. SOUL Family carries the legal status, rights and responsibilities of a familial relationship that will continue throughout your lifetime. SOUL Family would allow you to:

- Maintain your legal relationships with your biological and extended family, especially parents and siblings.
- Identify additional caring adults to commit to specific roles that support you in your education, career guidance and celebration of milestones. These adults can be a guidance counselor, mentor, coach, neighbor, or family friend.
- Provide resources and connections that you will receive through government and community-based organizations and your network of caring adults; and
- Connect you to continuing support that will help you thrive and navigate relationship challenges that might arise after your child welfare case is closed.

Why do young people need a new permanency option?

All children and youth deserve a caring network of family, friends and mentors to guide them through their teen years and into adulthood. For young people experiencing foster care, supportive adult relationships are not only critical to navigate the challenges and uncertainty of the child welfare system, they are also cornerstones of successful reunification, adoption and guardianship — the established pathways to legal permanency. These existing legal options work well for many young people. But others find these options don’t address the complexities of their lives and relationships.

Many young people who have experienced foster care report that current permanency arrangements are decided for them instead of with them and do not support their needs for lifelong relationships and healing. In addition, some young people feel these permanency options are grounded in legal traditions that do not appropriately reflect and honor their own unique cultures, family structures and communities. The young people who designed SOUL Family identified three key reasons why this proposed permanency pathway is needed.

- The current permanency options do not always support a vision of family that is youth-centered or that engages youth in a way that values their voice or the relationships they believe are most important.
- The existing permanency options do not always support lasting, legal relationships with adults and family members they choose, leaving youth without a permanency model that reflects their cultural traditions and family structures.
- Some young people feel that the current legal options for permanency force them to choose between permanent relationships and eligibility for critical education and financial support services reserved for those youth who “age out” of the system without a legal connection to family.

What is the philosophy behind the SOUL Family permanency option?

SOUL Family is intended to achieve the promise of family for older youth in foster care in a way that provides lifelong support, belonging and the legal benefits of being part of a caring family. For some, this family may include school mentors and community neighbors, for others, family may be a combination of relatives and foster parents. The point is that you get to choose who makes up your family with the support of the child welfare system and other caring adults. Regardless of how family may show up for you, the young leaders who created SOUL Family felt strongly that the pathway to achieve permanency should be guided by these principles:

- Youth deserve permanency through the development and support of lifelong relationships that connect them to the people they consider their family and community.
- Providing permanency for all youth is the responsibility and priority of the child welfare system and the inability to identify a permanent family represents a system failure.
- All pathways to achieve permanency must ensure that youth have access to nurturing relationships with caring adults, positive peer relationships, good physical and mental health care and effective education and job skills. This ongoing support should last until at least age 26.
- Permanency must include an appropriate legal relationship with one or more primary adults, ongoing connections to family members and deepening relationships with other caring adults.
- Permanency must honor and prioritize young people's sibling relationships, including being placed with their sibling whenever possible and enabling frequent visitation when joint placement cannot be accomplished.

- Permanency begins with the family and community that youth identify as their own, including mentors, friends and other caring individuals. This extended family and community network should also play a role in the permanency planning process.
- Permanency decisions must meaningfully engage young people and directly reflect their views and wishes.
- Ongoing accountability and funding is needed to ensure that young people and their families have the benefits, services, and emotional support needed to last a lifetime.

Who designed the SOUL Family permanency option?

Young people who experienced foster care with the support of adult partners. In 2018, a determined and visionary group of Jim Casey Fellows from the Jim Casey Youth Opportunities Initiative® began meeting with adult allies at the Annie E. Casey Foundation and national legal experts to discuss strategies to strengthen legal permanency options to better meet their needs. The young leaders concluded that, in addition to improving the child welfare system's approach to reunification, adoption and guardianship, a fourth permanency option is also needed to better reflect the complexity of some older youth's social networks. Their work illustrates the need to put young people in the driver's seat and, with proper support and guidance, to help create a new choice that enables them to thrive as healthy, productive adults.

Is the SOUL Family permanency option right for everyone?

No. It's important that young people have a range of options to meet their individual needs, and reunification, adoption and guardianship are still the right choices for some if and only if the young people themselves are guiding those choices. SOUL Family was not created to replace existing legal permanency options, but to provide greater flexibility in supporting the complex needs that many young people experience. The young leaders and designers of SOUL Family are dedicated to strengthening all permanency pathways and ensure that youth have ample opportunity to achieve lifelong permanency.

What is being done to improve other permanency pathways?

The same group of young people who helped to design the SOUL Family permanency option also worked with adult partners and legal experts from the Annie E. Casey Foundation to improve reunification, guardianship and adoption. The first thing they suggested is to make sure that all these options are guided directly by the young person instead of being decided for them. Young leaders also made it clear that child welfare agencies need to be much clearer in explaining the differences between all the available permanency options and how these choices will affect their lives in the long term.

Q Is SOUL Family available in your state?

Not yet. The SOUL Family permanency option is still a proposal, but the national SOUL team, a group of young leaders and supportive adults from the Annie E. Casey Foundation, is working with several states to implement this new legal option and build the understanding, resources, and services to support it. The knowledge gained from these pilot programs, along with growing support from young leaders, advocates, agency leaders and policymakers across the country, will help set the stage to make SOUL Family an option in every state.

Q Why is SOUL Family described as a permanency option when the term “permanency” is upsetting to some young people?

Permanency is meant to describe lasting relationships that endure over time and the child welfare system’s legal obligation to find loving and supportive families for youth in need. For too many young people in foster care, however, permanency is a false promise — a traumatic reminder of system failures that lead to uncertain legal status, disrupted relationships and a difficult road to adulthood. The young leaders who designed SOUL Family decided to continue using the term “permanency” only because it is readily understood by key decision makers and uniformly used in state and federal laws. Over the long term, however, young leaders are committed to redefining the word “permanency” to reflect its true meaning.



IMPORTANT LEGAL QUESTIONS

What are the key elements of the SOUL Family permanency option?

Once your state enacts the SOUL Family legal permanency option, it will determine the specific requirements of this new legal permanency option, taking into consideration the recommendations of local youth leaders to co-design this pathway. However, there are a few key elements that every state should include as critical elements in any new state law:

- A legal relationship established between the young person and one or more primary adults that:
 - carries the legal status of a familial relationship, including the benefits and resources that flow from that relationship such as inheritance and inclusion in decision making as caregivers age;
 - supports the young person's continued legal relationship with biological and extended family members; and
 - includes funding and services that are provided by other legal permanency options, such as reunification, guardianship and adoption.
- To implement the SOUL Family legal permanency option, a new law should set out:
 - a planning process that centers on the young person and their chosen family and broader network of caring adults;
 - meaningful youth engagement to support the development of a SOUL Family permanency agreement;
 - a process for distributing critical financial support;
 - a method for assessing and approving the safety and stability of adult permanency resources;
 - an array of post-permanency services provided by the government and the community to support the young person and their SOUL Family; and
 - a youth-focused permanency oversight system to support the SOUL Family arrangement over the long term.

Who chooses the members of your SOUL Family?

You! The SOUL Family permanency option is based on the philosophy that young people should guide the decisions that affect their lives. Too often, young people in care report that existing permanency arrangements are decided for them instead of with them and, as a result, do not support their needs for lifelong relationships and healing. With the guidance of caregivers, the caseworker and other supportive adults, you will decide who the members of your SOUL Family are. As with all other permanency options, your caseworkers and the court are responsible for ensuring that the adults you've chosen to be a part of your SOUL Family are safe and appropriate and understand their roles and responsibilities in your life.

Does the SOUL Family permanency option end when you become an adult?

No. SOUL Family is designed to provide lifetime permanence, family connections and a sense of belonging. Many young people age out of foster care without the strong connections they need to depend on in the long term. SOUL Family is designed to ensure that your legal relationships will last a lifetime. Like the other current permanency options, you will make decisions for yourself once you become a legal adult, but you will still benefit from continuing support of a caring network of adults as well as resources to help you thrive through the age of 26. You may also receive many of the same benefits as children in other families, including rights of inheritance and participation in health decision making as your primary guardians age. The extent of these additional legal benefits will be decided by you and your designated adults in accordance with state law.

How is SOUL Family different from legal guardianship?

As SOUL Family was being designed, the young leaders weighed whether to propose SOUL Family as an expansion of the current guardianship permanency option. Ultimately, they felt strongly that SOUL Family should be the stand-alone fourth option to achieve permanency. While there are some similarities between SOUL Family and guardianship, there are also several distinctions.

SIMILARITIES:

- Termination of your biological parents' rights is not required.
- You may remain connected to your biological family and your guardian.
- You may be eligible to receive transition-to-adult services and benefits depending on your age.
- While you are under the age of 18, your SOUL Family primary adult(s) would have certain daily decision-making rights, like those of a guardian.

DIFFERENCES:

- Depending on your state, guardianship ends at 18 or 21. SOUL Family relationships are intended to last throughout adulthood.
- A young person in a guardianship arrangement does not hold the same rights as those proposed for a youth in a SOUL Family. For example, a youth in a SOUL Family arrangement could be eligible to inherit and hold the rights of next of kin to receive benefits.
- SOUL Family would allow you to receive financial and other supportive services through the age of 26.
- You may have the option to live independently with the ongoing care and supervision of your chosen adult caregiver(s). This decision would be made with the input of your SOUL Family primary adults, the caseworker and the court.

Why is SOUL Family available only to youth ages 16 and older?

The young leaders who helped design SOUL Family had lengthy discussions about the age, developmental stages, brain development and level of emotional maturity needed to make decisions affecting their lives. Based on their experiences, and outreach with other youth in foster care, they determined that young people 16 and older have the developmental capacity, judgment, and emotional maturity to understand and distinguish among the permanency options. They decided that older youth are capable of assessing these choices with the counsel of trusted adults and understand their long-term emotional needs.

In a SOUL Family, who makes legal decisions for you until you become an adult?

Your selected primary adult(s) would be the decision makers for you until you become an adult. Because SOUL Family does not terminate the legal relationship with your biological parents, they would still retain some rights, but they will no longer make daily decisions on your behalf. However, if there is a disagreement between your primary adult(s) and your biological parents as to what is best for you, your primary adult(s) would make the final decision as any guardian would. A biological family member could also petition the court to regain full legal custody of you if you are a minor just as they could in any guardianship arrangement.

Do you have to live with one of the members of your SOUL Family until you become an adult?

While it is highly preferred that young people live in a family-like setting with caring adults for as long as possible, there may be rare circumstances when you may want to live independently to attend school, reside with a significant other or pursue another appropriate living situation with support of your legal guardians and caring adult network. Once you become an adult, it is presumed that you can live on your own if you choose.

Can you inherit from your primary adult(s) under the SOUL Family permanency option?

Yes, if you and the primary adults agree to it. In many families, inheritance involves a set of assets, such as homes, property, savings, or stocks, that are passed from parents to their children after death. Your state will determine how you will be eligible to inherit assets from your primary adult(s) or family members in your SOUL Family. Young leaders who participated in developing the SOUL Family legal option determined that the right to inheritance and option to make certain health decisions for a primary adult as they age should be critical options in your SOUL Family arrangements. These would be determined by you and your primary adult(s) in accordance with other state laws.

What could you do if a designated adult doesn't meet their legal responsibilities?

There are many options. You, your primary adult(s), and other caring adults can try to solve the issues through a family meeting, with the support of your caseworker. If the issue cannot be resolved within your SOUL Family, your child welfare agency can connect you to an expert mediator through the court that has experience in addressing conflict. If there is a more serious problem with an adult, you or your court-appointed lawyer could petition the court for a modification of your SOUL Family agreement. This petition could include a request to remove a primary adult from their responsibilities or authorize a different adult to take on the legal responsibilities in your life.

After a judge approves your SOUL Family order, when and how will your child welfare case be closed?

You, in partnership with your caseworker and other supportive adults in your SOUL Family network, will have the opportunity to lead all aspects of your permanency decision making. Just as you should be able to choose SOUL Family as the best option for you (and be allowed to consent to any final SOUL permanency order), you should also have adequate opportunity and time to adjust to your permanency transition. While your state will determine their own legal approach to this decision, your child welfare case should not be closed unless the following minimum conditions are met:

- A reasonable time (such as 60-90 days) has passed after the judge enters into your SOUL Family plan;

- The court and the child welfare agency have provided a clear and concrete plan for you to seek help, including access to conflict mediation, and, if necessary, to re-open your court case if your SOUL Family permanency is disrupted;
- Your SOUL plan clarifies and prioritizes the ongoing financial and educational support that you will continue to receive once your case is closed; and
- Your SOUL plan identifies a reliable and responsive person of contact at the child welfare agency to answer questions that may come up about your care and stability.

Q What post-permanency services would be available to you under the SOUL Family permanency option?

Your state would determine the assistance available to support your SOUL Family agreement. The young leaders who designed this option recommended that, at minimum, states should guarantee the following benefits beyond age 18:

- Health insurance through Medicaid, until at least age 26;
- Cash assistance until at least you become an adult and preferably through age 26;
- Chafee Foster Care Independent Living benefits, which support foster youth transitioning into adulthood through education, employment, financial management, housing, emotional support, etc.;
- Maintenance payments for ongoing housing support (foster home, supervised independent living setting, unsupervised independent living setting, subsidized rent, rental assistance, etc.);
- Age-appropriate, youth-driven case oversight, management services and other support until you become an adult;
- Educational and training vouchers to support your higher education;
- Life skills training and employment support; and
- Continued court oversight if needed once conflict arises in your case.



IMPACT ON FAMILY RELATIONSHIPS

What happens if two or more primary adults you designate disagree on an important decision?

You and your SOUL Family primary adults must agree upon a plan that identifies a process for resolving disagreements. This plan would become part of your court-approved SOUL Family agreement. You may decide to designate one primary adult as a key decision maker in the case of a disagreement. You and your designated adults may also decide to use a family mediator. If the issues still can't be resolved, you could also ask the court to resolve the conflict.

What happens if your birth parent and your SOUL Family adults disagree on an important decision?

There may be times when the adults in your life disagree on key decisions. If an agreement cannot be reached, however, the primary adult(s) that you designated under your SOUL Family agreement will have decision-making authority just as any legal guardian would.

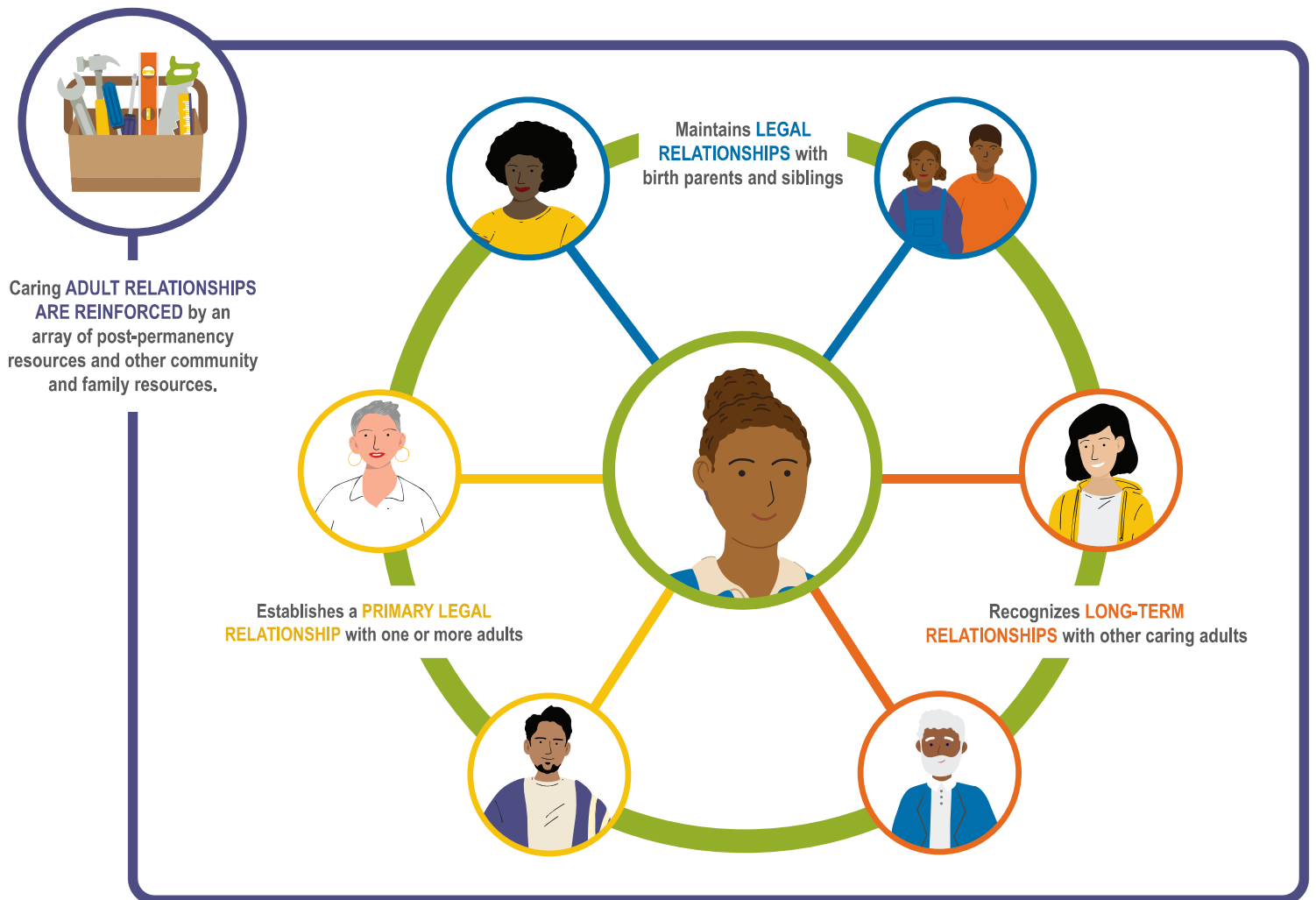
What services are available if you have a conflict with one or more of your SOUL Family members?

SOUL Family provides you and the caring adults in your life access to community-based services and benefits to help keep your relationships strong and work through problems as they arise. If your network of caring adults cannot navigate challenges, your permanency agreement will also specify how you might receive additional support from your child welfare agency, community-based organizations, or mediation. As a last resort, you and your SOUL Family may return to court to modify your SOUL Family agreement. No matter the pathway to resolution, settling any conflicts should be centered and driven by you along with the supportive adults in your corner.

*Q How does SOUL Family help you support your sibling connections?
Can you and your siblings share the same SOUL Family?*

SOUL Family is specifically designed to maintain and reinforce your sibling relationships and does not require the termination of your legal relationships with your biological family. You and your siblings can also share a SOUL Family, either through separate permanency agreements or, informally, through shared relationships with the same supportive adults. This flexibility under your SOUL Family permanency option allows you to determine the nature of your relationships with siblings and other important people in your life and feel fully supported in those relationships.

SOUL FAMILY PERMANENCY OPTION



SOUL FAMILY IMPLEMENTATION

What can the child welfare system, the courts and the community do to support your SOUL Family?

Caring adults, government agencies, the community and the courts have critical roles in ensuring the effectiveness and sustainability of your SOUL Family.

- The child welfare agency has the primary responsibility to guide you through the permanency decision-making process, ensure that adults named in your permanency plan are safe and supportive, connect you and your caring adults to available services, and help if there is a disagreement or something else goes wrong after the arrangement is approved.
- Your primary adult(s), network of other caring adults, birth parents and extended family members share responsibility to ensure that you are safe, your needs are addressed, that they work collaboratively to put you first, and that you have supportive and permanent relationships throughout adulthood.
- The court evaluates, approves and oversees your SOUL Family agreements to ensure that your relationships are legally recognized, you get the right benefits and ongoing conflicts are resolved.
- Your community recognizes and supports your most important relationships and ensures that your SOUL Family receives adequate and appropriate financial, education and social assistance and ongoing emotional support and legal recognition.

Do your SOUL Family primary adults need to be licensed?

Yes. Primary adults are those that you have chosen to make legal decisions for you, so the child welfare agency needs to make sure they are safe and appropriate. The young people who designed the SOUL Family permanency option recommended that the primary adult(s) you choose to undertake this important responsibility should be licensed and approved just as legal guardians are. Your state will decide the specifics on how to license your primary adult(s) that you have chosen for your SOUL Family.

Q How will SOUL Family become a legal permanency option in all states?

With support of the Annie E. Casey Foundation, a growing number of young leaders who have experienced foster care and adult allies, including attorneys and policymakers, are working in several pilot states to pass laws and build administrative structure to make SOUL Family a legal permanency option for eligible young people. Based on the experience of these initial states, the SOUL team will compile and share lessons learned and model legislation and programs with youth in foster care, child welfare advocates, lawyers, judges and other community stakeholders across the country who are interested in passing similar laws in their states.

Q Where can I find out more information?

To make the SOUL Family permanency option available to young people in every state, we need your help to educate the supportive adults in your life, your child welfare agency caseworker, lawyers and judges and the legislators in your state about why this new legal pathway is needed. If you want learn more about what you can do, contact Doreen Chapman at dchapman@aecf.org.

