

# INTERCOUNTRY ADOPTION

U.S. Department of State • Bureau of Consular Affairs



## Intercountry Adoption Dispatch March 3, 2020 Volume 2

The Office of Children's Issues (CI) intends the Intercountry Adoption Dispatch to be a regular series of communications to keep adoption service providers (ASPs) abreast of developments that may be relevant to your work in intercountry adoption. The information below is not intended to be comprehensive, but instead offers a snapshot of the issues we have focused on and information we believe may be useful to you as intercountry adoption professionals.

We welcome your input and feedback, as well as suggestions for future versions. As always, we want to hear from you about specific questions or concerns as well. Please email [Adoption@state.gov](mailto:Adoption@state.gov).

**Country Collaboration Calls:** If you would like to request a conference call with the Office of Children's Issues to share information or discuss a specific country, please let us know by email to [Adoption@state.gov](mailto:Adoption@state.gov). We will be happy to coordinate the opportunity for ASPs working a specific country to come together and communicate directly with us about observations, concerns, best practices, and recommendations. Although our ability to subsequently provide updates about any government-to-government communications that may follow these calls will be limited, we will take appropriate action based on your input to engage our embassies and foreign counterparts, as appropriate, in the interest of the viability of intercountry adoption.

**Acquisition of U.S. Citizenship for IR/IH-4 Visa Holders:** The Office of Children's Issues worked with the Department of Health and Human Services' Children's Bureau to develop and publish information about acquisition of citizenship for children who enter the United States under a guardianship order for the purpose of an adoption in a U.S. state court. These children are generally issued IR-4 or IH-4 visas and do not automatically acquire citizenship under the Child Citizenship Act of 2000. Adoptive parents need to take additional steps in their state of residence for the child to become a U.S. citizen. We hope this resource is helpful to ASPs as you discuss this important issue with your clients.

*Child Welfare Gateway:* [Completing Intercountry Adoptions Not Finalized Abroad](#)

Other helpful HHS resources about state laws that may be helpful for intercountry adoptive families include:

*Child Welfare Gateway:* [State Recognition of Intercountry Adoptions Finalized Abroad](#)

*Child Welfare Gateway:* [Unregulated Custody Transfer](#)

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**Adoption Instability – Sending a Child back to the Country of Origin:** We appreciate the communication and collaboration with ASPs who are working with adoptive parents seeking to send a child back to the country of origin. We discussed this issue at the Symposium, and shared the PowerPoint presentation with all ASPs via our listserv.

We recognize these situations are extremely difficult and complex. Please be mindful of the regulations that govern these scenarios: 22 CFR 96.50(e)(2) for children who entered the United States under a guardianship order for the purpose of a final adoption in the United States, and 22 CFR 96.51(d) for children who entered the United States after a final adoption abroad. ASPs who are faced with this situation are encouraged to communicate with the Office of Children’s Issues as early as possible and preferably in advance of any notification to the foreign authorities. Although we defer to parents, adoption and medical professionals, and state child welfare authorities to determine what is in a child’s best interests, the process for satisfying these regulatory requirements can be lengthy. Thank you for the work you do with and in support of support families in crisis.

**Habitual Residence - U.S. Citizen Prospective Adoptive Parents (PAPs) who Reside Outside of the United States:** ASPs working with expatriate (expat) families are encouraged to review and share with PAPs the information on our website regarding [Intercountry Adoption by U.S. Citizens Residing Abroad \(Expats\)](#).

As noted in Q2 of the FAQ, U.S. citizen PAPs present in a foreign Convention country while seeking to adopt a child from that country (or another Convention country) should consult that country’s central authority for a determination of habitual residence and to understand what process may be available for them to adopt. This is separate from whether USCIS regulations (8 CFR 204.303) permit a U.S. citizen living overseas to be “deemed to be habitually resident in the United States” for the purpose of seeking an immigration benefit for an adopted child. Guidance given regarding 8 CFR 204.303 and the possibility to process a U.S. Convention adoption via the I-800 process does not constitute a determination by the Department of State, as the U.S. Central Authority, that a U.S. citizen is or is not habitually resident in a foreign country. Nor does it negate the role of the foreign central authority in making a habitual residence determination.

**Reports of Abuse of a Child while in the Country of Origin, Prior to Adoption:** When ASPs learn that an adopted child has disclosed abuse that occurred prior to the adoption, while the child was in institutional or foster care in the country of origin, the Office of Children’s appreciates knowing so that we can monitor for trends in specific countries that may warrant bilateral engagement. Some ASPs have provided information about which country of origin, whether it happened in an orphanage or foster home, the region or city, approximate date of the alleged abuse, and the general nature of the allegation, without disclosing any details about the child or family. However, there is no federal requirement for ASPs to report this information to the Department and any submission of this information is voluntary.

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**U.S. Citizenship and the Social Security Administration:** We have noted an increase in public inquiries from adoptees and adoptive parents who are reporting difficulty with driver's license and federal financial aid applications because they do not have enough evidence of U.S. citizenship. As discussed on the [CCA information page](#), acquisition of citizenship may be documented with a Certificate of Citizenship issued by USCIS **and/or** a valid, unexpired U.S. passport issued by the State Department.

The Social Security Administration (SSA) and Division of Motor Vehicles (DMV) in some states use the [USCIS Save program](#) to verify whether USCIS has issued a Certificate of Citizenship. There is no mechanism for these agencies to confirm issuance of a U.S. passport. Consequently, if an adoptee acquired citizenship retroactively under the Child Citizenship Act (CCA) and does not have a Certificate of Citizenship OR if the adoptee has a passport only, SSA and DMV may not have the adoptee's U.S. citizenship reflected in their records. The adoptee may need to proactively present their passport or provide information about the [Child Citizenship Act of 2000](#) and request SSA and DMV records be updated to accurately reflect their citizenship status.

**Country-Specific Information Pages:** We are in the process of working with embassies around the world to update [country-specific information pages](#) on our website. These updates are not generally announced, so you may wish to periodically review the pages for countries where you have established programs or may be working with a specific family. If you have suggestions or feedback on any of these pages, please send them to [Adoption@state.gov](mailto:Adoption@state.gov).

**Adoption Tracking System (ATS):** Several ASPs have reported difficulty with submission of Public Key Infrastructure (PKI) request forms, as well as other ATS difficulties. We've heard your concerns and are working on a plan to take the stressor from ASPs. However, for now, the ATS technical team has provided two of the most common solutions related to PKI form requests:

- Users should be sure to click the 'Submit' button after pressing the 'Print' button.
- Users need to clear the browser cache to complete the supervisor section, particularly when the user is also the supervisor and attempts to fill out the form in the same browser.

As noted in the previous *Dispatch*, when ASPs request a case be reassigned to another ASP in ATS, we must con-

firm the primary provider before we can remove it from your list. ASPs should provide evidence to support the request, such as a home study or update that lists the primary provider, a contract between you and the primary provider, an I-600 or I-800 listing the primary provider, correspondence clearly specifying who is acting as the primary provider.

Thank you to those who have provided this information proactively as it allows us to be more responsive to your requests and to resolve them more efficiently! If you are unable to provide any of the supporting documents listed above, please let us know and we will work with you to identify other ways to rectify this matter. We are prioritizing ATS case reassignments for ASPs who are or will soon be in the re-accreditation process and appreciate everyone's patience.



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**National Visa Center:** All inquiries related to visas are handled by the [National Visa Center](#) (NVC.) Information about [how to find a case number or invoice number](#) is available on the Department's website. To contact NVC, you may reach out by phone at 603-334-0700 (for immigrant visa queries) or you may submit a question using the ["Ask NVC" form](#).

## COUNTRY UPDATES

**CHINA:** Public health conditions in China remain fluid and authorities at various levels within China continue to introduce further restrictions on movement, affecting the ability to complete intercountry adoptions. We appreciate ASP participation in the weekly conference calls we have been holding to share any updates on operating in China since February 3. We will continue to offer these weekly calls until conditions stabilize.

The State Department's Level Four Travel Advisory (advising against travel) for China has not changed. We strongly encourage all to monitor the [Travel Advisory](#) and country-specific information page before any PAPs consider travel to China. We are tracking the more urgent age out cases (age 14 under Chinese law) and have asked CCCWA regarding expediting of processing to the extent possible. We have also asked CCCWA about granting a waiver or extension on age-out cases. CCCWA has already indicated that no waiver is available for age-out cases, and ASPs and PAPs should assume for now that will continue to be their position. We will update everyone immediately if that changes. We also request ASPs with cases that may age out of China's adoption program to inform us immediately, with as much detail as possible on status of the case. Please note that NVC continues to process applications and issue letters to PAPs, although PAPs and ASPs should not interpret this as a change in the Travel Advisory against travel to China at this time.

The Adoption Unit at the U.S. Consulate in Guangzhou also continues to review and adjudicate Article 5's. We are in daily contact with the U.S. Consulate Guangzhou's Adoption Unit to track any developments. Although Consulate Guangzhou's capacity to offer consular services is reduced, they will prioritize services to American citizens and adoptive families. We also prioritize reviewing and responding to your emails and are closely following this situation on the ground. To that end, we would appreciate hearing directly from you any information or observations from your local representatives currently in China. We also encourage ASPs with China cases to use our weekly calls to share any perspectives and experience you have with each other for the benefit of all.

**NEPAL:** Recent discussions with Nepal's Ministry of Women, Children, and Senior Citizens indicate that all Nepal adoptions may be on hold for the foreseeable future. The website for the ministry is not currently functioning. Questions about local adoption procedures can be raised with the Ministry of Women, Children, and Senior Citizens directly and/or with a local attorney specializing in adoptions. The [Nepal country-specific information page](#) has been updated to reflect this information.

**NIGERIA, KYRGYZSTAN, ERITREA, and BURMA - Presidential Proclamation 9983:** On February 22, 2020, Presidential Proclamation 9983 will go into effect and will impose travel restrictions on six countries: Nigeria, Kyrgyzstan, Tanzania, Eritrea, Sudan, and Burma. Travel restrictions related to the Proclamation will go into effect on February 22, 2020. Iran, Libya, North Korea, Somalia, Syria, and Yemen are still subject to the travel restrictions detailed in the

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Proclamation. Detailed information about [Proclamations 9645 and 9983](#) is available on the Department's website. Immigrant visas for adopted children in Burma, Eritrea, Kyrgyzstan, and Nigeria will be subject to the restrictions. However, as noted in the Proclamation, waivers will be determined on a case-by-case basis, including those cases in which "the foreign national is an infant, a young child or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case." Consular officers may, in their discretion, grant waivers on a case-by-case basis when they determine that the applicant's entry is in the national interest, would not pose a threat to the national security or public safety of the United States, and denying entry would cause undue hardship. Adoption cases are likely to meet these criteria. There is no action necessary on the part of ASPs or PAPs to request or initiate a waiver review for adoptions. Visas may not be pre-adjudicated, but in most cases, we do not expect there to be delays related to this development.

**OUTGOING:** We are updating the [Guide to Outgoing Cases from the United States](#). ASPs who process outgoing cases are welcome to provide input and feedback regarding any components of the current guide that may not adequately or accurately address the outgoing process from their perspective. Please send any voluntary input by email to [Adoption@state.gov](mailto:Adoption@state.gov), no later than April 1, 2020.

**REPUBLIC OF CONGO:** The Republic of the Congo is the 102nd country to become a party to the *Hague Adoption Convention*. The Convention will enter into force for the Republic of the Congo on April 1, 2020. The Department is currently determining if the United States may process Convention adoptions with Republic of Congo pursuant to U.S. law and will publish additional guidance on or before April 1.

**SOUTH AFRICA:** The South African Department of Home Affairs began a new procedure in May 2019 for issuing new birth certificates and South African passports after parents completed an adoption. This greatly increased the time U.S. families waited on documents before traveling home with their children. Due to the uncertainty of civil document issuance, several families with pending adoption hearings cancelled or delayed their plans in late 2019. A South African adoption agency, Wandisa, won a court ruling in January 2020 on behalf of future PAPs, compelling the Department of Home Affairs to issue civil documents promptly to adopted children. One U.S. family recently completed an adoption in country and is waiting for the child's documents. As soon as Children's Issues has more information, we will issue an update.

**SOUTH KOREA:** ASPs should monitor the Department's [Travel Advisory for South Korea](#) periodically for the most updated information, which is currently at *Level Three—Reconsider Travel*, with the exception of Daegu which is a *Level Four – Do Not Travel* due to the level of community transmission of the virus and imposition of local quarantine procedures. At this time, the Embassy in Seoul is fully operational. We would appreciate hearing directly from you any information or observations from your local representatives currently in South Korea for the latest information on their operation and any changes to the court hearing dates. ASPs may email the Office of Children's Issues with questions or concerns about specific cases.

**UGANDA:** Related to the January 17 Notice we posted about [fostering and residency requirements in Uganda](#), we are working with the Embassy in Kampala to seek clarification regarding the rescission process and will share additional information as soon as it becomes available.

**UKRAINE:** The Ukrainian Embassy in Washington, D.C. notified us that they have seen about a 10% increase in post-adoption reporting from 2018 to 2019. Thank you to ASPs who have worked diligently with families to communicate the importance of compliance with reporting requirements!