



INTERCOUNTRY ADOPTION



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FAQs for SOCIAL WORKERS

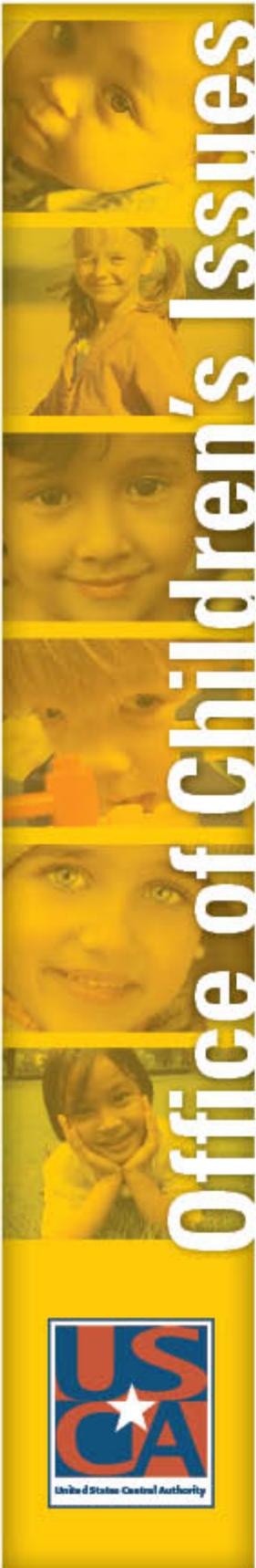
Disclaimer: *The following is intended as a very general guide to assist social workers to gain a basic understanding of elements of the accreditation and approval regulations under the Hague Convention on Intercountry Adoption that might be of particular interest. It is not a substitute for the actual regulations, nor is it a comprehensive summary of the regulations or of the individual sections discussed. It should not be taken as providing a definitive answer to whether a social worker or social work organization needs to be accredited, temporarily accredited, or approved or to what the requirements of a particular accreditation and approval standard entail. In the case of any inconsistencies between this document and the regulation, the regulation governs. For additional information, please see the final rule on Accreditation of Agencies and Approval of Persons under the Intercountry Adoption Act of 2000 (IAA) in 22 CFR Part 96 (accreditation regulations), Visit Adoption.State.Gov to read more about the intercountry adoption process and requirements.*

A Guide for Social Workers under the Hague Adoption Convention

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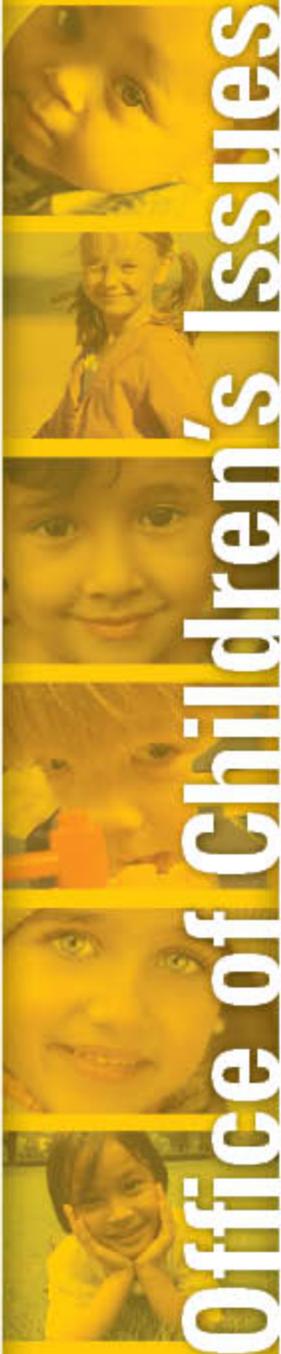


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Who needs to be accredited and who needs to be approved under the Hague Adoption Convention (Convention)?

Agencies or persons who seek to offer adoption services (defined below) in an intercountry adoption involving a Convention country (also defined below) generally must be either accredited, temporarily accredited, approved, or working under the supervision of an accredited agency, temporarily accredited agency, or approved person; limited exceptions to this requirement are detailed in the accreditation regulations and discussed to some extent below. This general rule applies regardless of whether the adoption involves a child moving from a Convention country to the United States (incoming) or moving from the United States to another Convention country (outgoing).

Accreditation, temporary accreditation, approval or supervision is not required to provide adoption services in a case involving the United States and a foreign country that is not a Convention country, or in a case that takes place entirely within the United States and does not involve a child moving from one country to another in connection with the adoption.

“Convention countries” are those countries that have a treaty relationship with the United States under the Hague Convention on Intercountry Adoption (“the Convention”). A list of Convention countries and other information on Convention accession can be found under the “Hague Convention on Intercountry Adoption” heading on www.travel.state.gov

Agencies – nonprofit agencies or organizations licensed to provide adoption services in at least one State. Agencies may seek accreditation.

Persons – for-profit organizations or individuals. Persons may seek approval.



What are the adoption services for which accreditation, temporary accreditation or approval is required?

The accreditation regulations set forth six adoption services for which accreditation, temporary accreditation, or approval is generally required:

- 1) Identifying a child for adoption and arranging an adoption;
- 2) Securing the necessary consent to termination of parental rights and to adoption;
- 3) Performing a background study on a child or a home study on prospective adoptive parent(s), and reporting on such a study;
- 4) Making non-judicial determinations of the best interests of a child and of the appropriateness of an adoptive placement for the child;
- 5) Monitoring a case after a child has been placed with prospective adoptive parent(s) until final adoption; or
- 6) When necessary because of a disruption before final adoption, assuming custody of a child and providing (including facilitating the provision of) child care or any other social service pending an alternative placement.

How will my responsibilities as a social work professional change once the United States becomes a Convention country?

One of the major changes for social work professionals handling intercountry adoption cases is that you will be expected to comply with not only your State's laws and regulations on intercountry adoptions but also new federal rules, including the accreditation regulations, the Intercountry Adoption Act of 2000 (IAA), and the Convention, where applicable. You should also be aware of which countries are Convention countries (www.travel.state.gov) and familiar with the requirements of the Convention to better assist and advise prospective adoptive parents.



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In what capacity can an individual U.S. social work professional provide adoption services in a Convention case once the Convention enters into force for the United States?

An individual social work professional will be able to perform adoption services in the United States in a Convention case in any one of the following capacities:

- As an exempted provider;
- As a supervised provider;
- As an approved person; or
- As part of the staff of an accredited agency, temporarily accredited agency or approved person.
- As an employee of a State, local, or tribal government (a “public domestic authority”)

What does it mean to be an exempted provider?

Exempted provider means a social work professional or organization that performs a home study on prospective adoptive parent(s) or a child background study, or both, in the United States in connection with a Convention adoption (including any reports or updates), but that is not currently providing and has not previously provided any other adoption service in the case.

Home studies and child background studies, when handled by exempted providers, may be performed without accreditation, temporary accreditation, approval, or supervision; however, an exempted provider’s home study must be approved by an accredited agency or temporarily accredited agency in accordance with 22 CFR §96.47(c). Similarly, an exempted provider’s child background study must be approved by an accredited agency or temporarily accredited agency in accordance with 22 CFR §96.53(b). This is a new approval requirement mandated by the IAA that is separate from and in addition to any applicable State approval requirements, which must also be met.



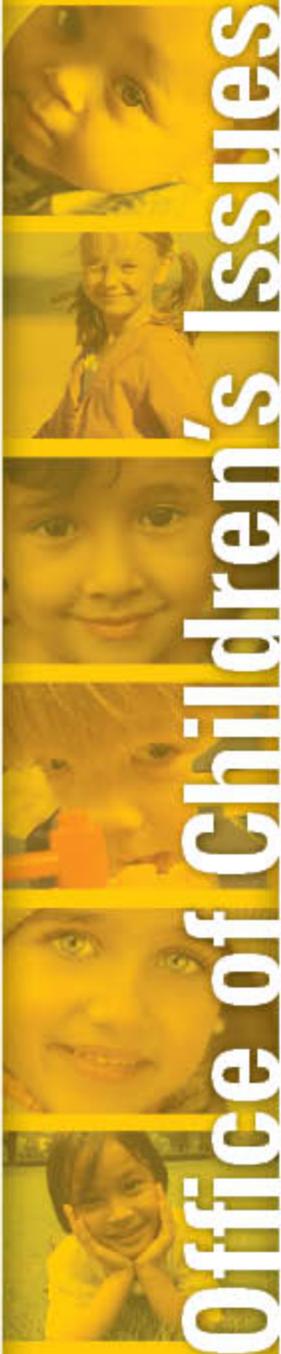
Please see Subpart C of the accreditation regulations (22 CFR §96.12-§96.17) for additional discussion of circumstances in which accreditation, approval, or supervision is not required.

What does it mean to be a supervised provider?

For every Convention adoption involving a private adoption service provider subject to the accreditation regulations, an accredited agency, temporarily accredited agency or approved person must be identified as responsible for ensuring that the six adoption services are provided. This agency or person is called the *primary provider*. If the primary provider uses another organization or an individual who is not a direct employee, such as a consultant or independent contractor, to carry out one or more of the six adoption services, the primary provider will generally be required to supervise and be responsible for that organization or individual. (There are exceptions to this rule: For example, exempted providers are subject to a different forms of oversight, as discussed in the answer to the previous question, as are foreign providers of certain adoption services, whose services can be verified after-the-fact in accordance with 22 CFR §96.14 and §96.46(c).) Individuals and organizations providing adoption services under the supervision and responsibility of a primary provider are called *supervised providers*. They may be social work professionals, among others, working either in the United States or a foreign country. Supervised providers are not required to be accredited, temporarily accredited, or approved but must be supervised by a primary provider.

If you are a supervised provider, the primary provider handling the adoption case will be responsible for ensuring that you meet conditions set forth in 22 CFR 96.45 (if you are operating in the United States) or 22 CFR 96.46 (if you are operating abroad). The accreditation regulations provide for a contract between the primary provider and its supervised provider to be created and to include specific information on your obligations, such as the services to be provided and fees and expenses to be charged.

Please see Subpart C of the accreditation regulations (22 CFR §96.12-§96.17) as well as 22 CFR §96.45 and §96.46 for additional information on supervised providers and the other types of providers that a primary provider may use.



What does it mean to be an approved person?

An approved person is a for-profit organization or an individual that has been approved, as opposed to accredited or temporarily accredited, by a designated Accrediting Entity. (Individuals and for-profit organizations cannot become accredited or temporarily accredited.) If you are a social work professional interested in applying to become an approved person more information can be found on www.travel.state.gov. Generally speaking, an approved person must meet the same regulatory standards that would apply to an accredited agency.

What qualifications do I need to work as a social work professional on the staff of an accredited agency, temporarily accredited agency or approved person in Convention cases?

The accreditation and approval standards in 22 CFR 96.37 relate to employee qualifications. In order to meet these standards, agencies or persons may only use employees with appropriate qualifications and credentials to perform, in connection with a Convention adoption, adoption-related social service functions that require the application of clinical skills and judgment (home studies, child background studies, counseling, parent preparation, post-placement and other similar services). Also all employees must meet any State licensing or regulatory requirements for the services they are providing, and either the executive director, the supervisor overseeing a case, or the social service employee providing adoption-related social services that require the application of clinical skills and judgment must have experience in the professional delivery of intercountry adoption services.

In addition, the regulations set forth specific standards based on the position held. To meet these standards, not every social work professional working for an accredited agency, temporarily accredited agency, or approved person needs to hold a MSW or master's degree.

Supervisory social service personnel will need prior experience in family and children's services, adoption, or intercountry adoption and one of the following:

- o A MSW from an accredited social work program;
- o A master's degree or doctorate in a related human service field.



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Related human service fields include, but are not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, and pastoral counseling; or,

- o In the case of a social work supervisor who is or was an incumbent at the time the Convention enters into force for the United States, significant skills and experience in intercountry adoption and regular access for consultation purposes to an individual who has a MSW from an accredited social work program or a master's degree or doctorate in a related human service field.

Non-supervisory personnel, who provide adoption-related social services that require the application of clinical skills and judgment other than home studies or child background studies must meet any one of the following requirements:

- o A MSW from an accredited social work program;
- o A master's degree in a related human service field;
- o A bachelor's degree from an accredited program of social work; or,
- o A bachelor's degree in any field and prior experience in family and children's services or adoption.

In addition, they must be supervised by an employee who meets the requirements of a social work supervisor, summarized above.

Home study and **child background study preparers** do not need to hold specific academic degrees, except as may be required by applicable State law, but must meet all of the following requirements:

- o Be authorized or licensed to complete the study under the laws of the States in which they practice;
- o Be supervised by an employee who meets the requirements of a social work supervisor, summarized above; and,
- o If conducting home studies, meet the requirements for home study preparers set forth in Department of Homeland Security Regulations at 8 CFR 204.3(b)

Please see 22 CFR 96.37 for additional information on standards related to education and experience requirements for social service personnel.



Will I need additional training to perform adoption services?

To meet the accreditation and approval standards on training, agencies and persons must generally provide newly hired social service staff that has adoption-related responsibilities involving the application of clinical skills and judgment, such as home studies and child background studies, counseling services, parent preparation, post-placement and other similar services, with comprehensive orientation training that includes the following topics:

- 1) The requirements of the Convention, the IAA, the regulations implementing the IAA, and other applicable Federal regulations;
- 2) The INA regulations applicable to the immigration of children adopted from a Convention country;
- 3) The adoption laws of any Convention country where the agency or person provides adoption services;
- 4) Relevant State laws;
- 5) Ethical considerations in intercountry adoption and prohibitions on child-buying;
- 6) The agency's or person's goals, ethical and professional guidelines, organizational lines of accountability, policies, and procedures;
- 7) The cultural diversity of the population(s) served by the agency or person.

The accreditation and approval standards provide for both newly hired employees and current employees who have responsibilities dealing with the application of clinical skills and judgment, such as home studies and child background studies, counseling services, parent preparation, post-placement and other similar services to receive training in a number of areas.

In addition, agencies and persons must generally provide both new hires and current employees whose responsibilities include providing adoption-related social services that involve the application of clinical skills and judgment with initial training addressing the following topics:

- 1) The factors in the countries of origin that lead to children needing adoptive families;



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- 2) Feelings of separation, grief, and loss experienced by the child with respect to the family of origin;
- 3) Attachment and post-traumatic stress disorders;
- 4) Psychological issues facing children who have experienced abuse or neglect and/or whose parents' rights have been terminated because of abuse or neglect;
- 5) The impact of institutionalization on child development;
- 6) Outcomes for children placed for adoption internationally and the benefits of permanent family placements over other forms of government care;
- 7) The most frequent medical and psychological problems experienced by children from the countries of origin served by the agency or person;
- 8) The process of developing emotional ties to an adoptive family;
- 9) Acculturation and assimilation issues, including those arising from factors such as race, ethnicity, religion, and culture and the impact of having been adopted internationally; and,
- 10) Child, adolescent, and adult development as affected by adoption.

Agencies and persons must also ensure that employees or individuals who provide adoption-related social services that involve the application of clinical skills and judgment receive, in addition to the orientation and initial training mentioned above, no less than 30 hours of training every two years, or more if required by State law, on current and emerging adoption practice issues. Continuing education hours required by State law may count toward the 30 hours of training as long as the training is related to current and emerging adoption practice issues.

Please see 22 CFR §96.38 for additional information on training of social service personnel, including on obtaining exemptions from training.

Will the accreditation regulations change the way I prepare a home study in a Convention case?

Most adoption service providers have a particular home study format. For the most part you will prepare a home study as required by the adoption service



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provider and in accordance with State law. In addition, to meet the accreditation and approval standards on preparation of home studies in incoming cases, the following information needs to be included in the home study:

- Information about the prospective adoptive parent(s) identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom they would be qualified to care (specifying in particular whether they are willing and able to care for a child with special needs);
- A determination whether the prospective adoptive parent(s) are eligible and suited to adopt;
- A statement describing the counseling and training provided to the prospective adoptive parent(s);
- The results of a criminal background check on the prospective adoptive parents and any other individuals for whom a check is required under DHS regulations;
- A full and complete statement of all facts relevant to eligibility and suitability of the prospective adoptive parent(s) to adopt a child under any specific requirements identified to the Department of State by the Central Authority of the child's country of origin; and,
- A statement in each copy of the home study that it is a true and accurate copy of the home study provided to the prospective adoptive parent(s) or DHS.

In addition:

- The home study must be performed in accordance with 8 CFR 204.3(e) (DHS home study rules), and any applicable State law;
- Where the home study is not performed in the first instance by an accredited agency or temporarily accredited agency, the home study must be reviewed and approved in writing by an accredited agency or temporarily accredited agency in accordance with 22 CFR 96.37(c); and



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- The same home study that was provided to the prospective adoptive parents(s) or to DHS must be transmitted in a timely manner to the Central Authority of the child's country of origin (or to an alternate authority designated by that Central Authority).

If the home study or child background study is not done by an accredited or temporarily accredited agency, it must be reviewed and approved by an accredited or temporarily accredited agency.

Note: An approved person may not approve a home study performed in the first instance by another provider, and any home study performed in the first instance by an approved person must itself be approved by an accredited or temporarily accredited agency.

Please see 22 CFR §96.47 for additional information on preparation of home studies in incoming cases, including information on the approval process.

Do social work supervisors or other social work professionals need to be licensed in their State to perform or approve home studies in Convention cases?

In order to meet applicable accreditation and approval standards, a home study preparer must among other things meet any applicable State requirements, which may include licensing or other form of authorization. It is important to note that the accreditation regulations do not override State regulations on licensing.

A social work professional who performs a home study may be eligible to work as an exempted provider. An exempted provider is not required to be accredited, approved, or supervised but the home studies it performs must subsequently be approved by an accredited or temporarily accredited agency.

How do the regulations change the preparation and training of prospective adoptive parent(s) in incoming cases?

In order to meet accreditation and approval standards relating to prospective adoptive parent training, an agency or person generally must provide prospective adoptive parents with at least ten hours (independent of the home



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study) of preparation and training designed to promote a successful intercountry adoption before they travel to adopt the child or the child is placed with them for adoption.

The training provided must address the following topics:

- The intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the in-country conditions that affect children in the Convention country from which the prospective adoptive parent(s) plan to adopt;
- The effects on children of malnutrition, relevant environmental toxins, maternal substance abuse, and of any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin;
- Information about the impact on a child of leaving familiar ties and surroundings, as appropriate to the expected age of the child;
- Data on institutionalized children and the impact of institutionalization on children, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin;
- Information on attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may experience, before and after their adoption;
- Information on the laws and adoption processes of the expected country of origin, including foreseeable delays and impediments to finalization of an adoption;
- Information on the long-term implications for a family that has become multicultural through intercountry adoption; and,
- An explanation of any reporting requirements associated with Convention adoptions, including any post-placement or post-adoption reports required by the expected country of origin.

In addition, an agency or person must also provide the prospective adoptive parent(s) with training that allows them to be as fully prepared as possible for the adoption of a particular child. This includes counseling on:



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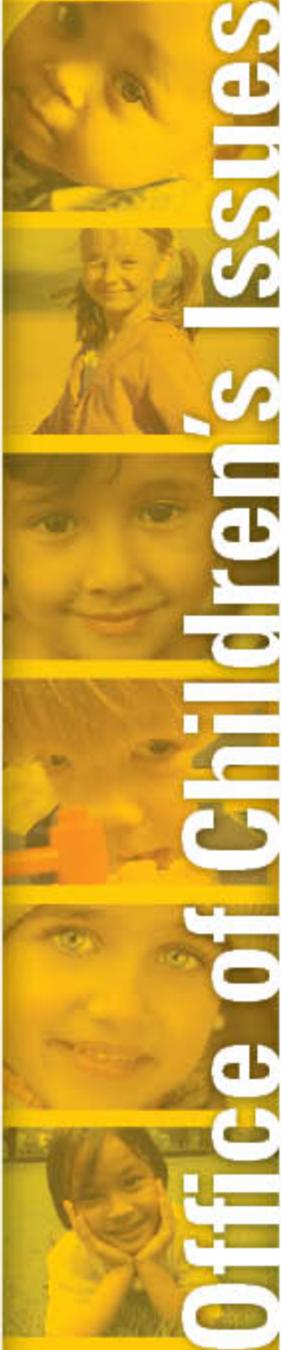
- The child's history and cultural, racial, religious, ethnic, and linguistic background;
- The known health risks in the specific region or country where the child resides; and,
- Any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child.

Training must be provided through appropriate methods, including:

- Collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents;
- Group seminars offered by the agency or person or other agencies or training entities;
- Individual counseling sessions;
- Video, computer-assisted, or distance learning methods using standardized curricula; or,
- In cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.

On an as-needed basis, the agency or person must provide additional in-person, individualized counseling and preparation to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.

The agency or person must also provide the prospective adoptive parent(s) with information about print, Internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; and seeking appropriate help when needed. The nature and extent of the training and preparation provided to the prospective adoptive parent(s) must be recorded in the adoption record.



The prospective adoptive parent(s) can be exempted from all or part of the training normally required for a specific adoption only if the agency or person determines that they have received adequate prior training or have prior experience as parent(s) of children adopted from abroad.

Please see 22 CFR §96.48 for additional information on prospective adoptive parent training standards in incoming cases.

What are the requirements for acquiring the medical and social records of the child in an incoming case?

In order to meet accreditation and approval standards relating to the provision of medical and social information in incoming cases, an agency or person must provide a copy of the child's medical records (including, to the fullest extent practicable, a correct and complete English-language translation) to the prospective adoptive parent(s) as early as possible, but no later than two weeks before the adoption or placement for adoption, or two weeks before the date on which the prospective adoptive parent(s) travel to the country of origin to complete procedures there relating to the adoption or placement for adoption, whichever is earlier. If any of these medical records is a summary or compilation of other medical records, the agency or person must include the underlying medical records, if available. It must also provide any untranslated medical reports, videotapes or other reports and provide an opportunity for the client(s) to arrange for their own translation, including into a language other than English, if needed.

In addition, the agency or person itself must use reasonable efforts or require its supervised provider(s) in the child's country of origin responsible for obtaining medical and social information on the child to use reasonable efforts to obtain available information on the child, including in particular the following:

- The date that the Convention country or other child welfare authority assumed custody of the child and the child's condition at the time;
- History of any significant illnesses, hospitalizations, special needs, and changes to the child's condition since Convention country or other child welfare authority assumed custody of the child;



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- Growth data, including prenatal and birth history and developmental status over time and current developmental data at the time of the child's referral for adoption;
- Specific information on the known health risks in the specific region or country where the child resides;
- Information about the child's birth family and prenatal history and cultural, racial, religious, ethnic, and linguistic background;
- Information about all the child's past and current placements prior to adoption, including but not limited to any social work or court reports on the child and any information on who assumed custody and provided care for the child; and,
- Information about any known birth siblings, including information about such siblings' whereabouts.

When any of the above information cannot be obtained, the agency or person must document in the adoption record the efforts made to obtain the information and why it was not obtainable, and continue to use reasonable efforts to secure the missing medical or social records until the adoption is finalized.

Also, if an agency or person provides medical information (other than that provided by public foreign authorities) to the prospective adoptive parent(s) from an examination by a physician or from an observation of the child by someone who is not a physician, it must use reasonable efforts to include the following:

- The name and credentials of the physician who performed the examination or the individual who observed the child;
- The date of the examination or observation; how the report's information was retained and verified; and, whether anyone directly responsible for the child's care has reviewed the report;
- If the medical information includes references, descriptions, or observations made by someone other than the physician who performed the examination or the person who performed the observation, the identity



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of that person, his or her training, and information on the data and perceptions the person used to draw his or her conclusions;

- A review of hospitalizations, significant illnesses, and other significant medical events, and the reasons for them;
- Information about the full range of any tests performed on the child, including tests addressing known risk factors in the child's country of origin; and,
- Current health information.

In addition, where available, the agency or person must provide information for contacting the examining physician or the individual who made the observations to any physician engaged by the prospective adoptive parent(s), on request.

Also, any videotapes and photographs taken of the child must be dated and made in compliance with the laws of the country where recorded or taken. An agency or person may not withhold from or misrepresent to the prospective adoptive parent(s) any available medical, social or other pertinent information concerning the child.

Finally, an agency or person may not withdraw a referral until the prospective adoptive parent(s) have had two weeks to consider the medical and social needs of the child and their ability to meet those needs and to obtain physician review of medical information and other descriptive information, including any available videotapes of the child, unless extenuating circumstances involving the child's best interests require a more expedited decision.

Please see 22 CFR §96.49 for additional information on standards relating to the provision of medical and social records in incoming cases.



What are the requirements for placement and post-placement monitoring in incoming cases?

For incoming cases, in order to meet the accreditation and approval standards relating to placement and post-placement monitoring before the adoption has been finalized, an agency or person must, among other things:

- Ensure the number of home visits required by State law or the country of origin, which ever is greater, are performed;
- Until the final adoption occurs, provide post-placement reports to the country of origin when required by the country to do so;
- If the placement for adoption is in crisis, make an effort to provide or arrange for counseling by an individual with appropriate skills to assist the family in dealing with the problems that have arisen;
- Act promptly and in accord with any applicable legal requirements to remove the child when the placement may no longer be in the child's best interests, to provide temporary care, to find an eventual adoptive placement for the child and, in consultation with the Department of State, to inform the Central Authority of the child's country of origin about any new prospective adoptive parent(s);

Post-placement means after a grant of legal custody or guardianship of the child to the prospective adoptive parent(s) or to a custodian for the purpose of escorting the child to the identified prospective adoptive parent(s), and before an adoption.

Post-adoption means after an adoption; in cases in which an adoption occurs in a Convention country and is followed by a re-adoption in the United States, it means after the adoption in the Convention country.

Please see 22 CFR §96.50 for additional information on placement and post-placement monitoring standards in incoming cases.



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What is needed for the preparation of background studies and consents for emigrating U.S. children being adopted by residents of a Convention country (outgoing cases)?

In order to meet accreditation and approval standards relating to child background studies and consents in outgoing cases, an agency or person must take all appropriate measures to ensure that the child background study includes information about the child's identity, adoptability, background, social environment, family history, medical history (including that of the child's family), and any special needs of the child. The background study must also include:

- Information that demonstrates all consents were done in accordance with 22 CFR 96.53(c), which provides, among other things, that
 - o all necessary consents, including that of the child (where required), were freely given in writing in the required legal form, and not induced by payment or compensation of any kind;
 - o those who provided consent were given counseling as necessary and informed of the effects of consent, in particular, whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin; and,
 - o the consent of the birthmother, where required, was executed after the birth of the child.
- Information that demonstrates due consideration of the child's wishes and opinions in circumstances when a child is twelve or older (or as otherwise provided by State law);
- Information that confirms that the child background study was prepared either by an exempted provider or an individual who meets the qualifications discussed above for employees who prepare child background studies;
- In addition, an agency or person must:
- Ensure that the child background study, if not prepared in the first instance by an accredited agency or temporarily accredited agency, is reviewed and approved in writing by such an agency; and,



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- Take all appropriate measures to transmit to the Central Authority (or other competent authority or accredited bodies of the foreign country), prior to the child's adoption, the child background study, proof that the necessary consents have been obtained, and the reasons for its determination that the placement is in the child's best interests, without revealing the identity of the mother or father if these identities may not be disclosed under State law.

Please see 22 CFR §96.53 for additional information on standards relating to preparation of background studies and consents in outgoing cases, including information on the approval process. Other accreditation and approval standards specific to outgoing cases are found at 22 CFR 96.54 and 96.55.

Does an agency or person need to meet every accreditation and approval standard in order to maintain accreditation or approval?

Accredited agencies and approved persons should strive to satisfy every applicable standard. Less than full compliance with some standards may not result in loss of accreditation or approval, however. Accrediting entities will determine whether an applicant can maintain accreditation or approval by using a substantial compliance system approved by the Department of State, as outlined in section 96.27 of the accreditation regulations.

Please see Subpart F of the accreditation regulations (22 CFR §96.29-§96.55) for the accreditation and approval standards as a whole. (Temporary accreditation involves different standards and procedures and is addressed separately, in Subpart N of the accreditation regulations {22 CFR §96.95-§96.111}).