



FREQUENTLY ASKED QUESTIONS (FAQS): OUTGOING CASES



This document provides a general overview of certain elements of 22 CFR Parts 96, 97 and 99, the regulations governing the accreditation and approval of intercountry adoption service providers and other matters under the Intercountry Adoption Act of 2000. It is not a substitute for the actual regulations, nor is it a comprehensive summary of the regulations. In the case of any inconsistencies between this document and the regulations themselves, the language of the regulations governs.

What is an outgoing Convention adoption case?

An outgoing Convention adoption case occurs when there is an adoption of a child resident in the United States by an individual or individuals residing in a Convention country, when, in connection with the adoption, the child has moved or will move from the United States to the Convention country. The adoption may involve a final adoption decree being issued in the United States or custody for the purpose of adoption in the other Convention country may be granted. Both final adoption cases and custody for the purpose of adoption cases can be Convention adoption cases.

What is the reason the Department of State (DOS) is involved in outgoing adoption cases to a Convention country?

The Convention covers both incoming and outgoing adoption cases. DOS, as the Central Authority under the Convention, is responsible for implementing the provisions of the Convention and of the U.S. federal legislation—the Intercountry Adoption Act of 2000 (IAA). Like the Convention, the IAA also covers outgoing cases, when the United States is the country of origin, and incoming cases, when the United States is the receiving country.

Will non-Convention countries be covered?

Only outgoing adoptions to Convention countries are covered by the Convention and 22 CFR Part 97. However, new reporting requirements in 22 CFR Part 99 apply to outgoing cases to both Convention and non-Convention countries.

What are the main changes that will affect outgoing cases to Convention countries?

The main changes affecting outgoing cases include:

- New requirement to obtain a Hague Adoption Certificate (HAC) or Hague Custody Declaration (HCD) which obligates the receiving Convention country to recognize the adoption or custody for purpose of an adoption;
- New requirements for court findings to support the HAC or HCD application; and
- New reporting requirements for outgoing cases.

Where are the new requirements published?

22 CFR Part 97 was published in the Federal Register (Volume 71, No. 212) on November 2, 2006, and 22 CFR Part 99 was published on March 6, 2007 (Volume 72, No. 43). In addition, 22 CFR Part 96 (§§ 96.53 – 96.56 in particular) sets forth accreditation standards for agencies and persons that provide adoption services in outgoing cases. 22 CFR Part 96 was published on February 15, 2006 (Volume 71, No. 31).

After a court grants the adoption decree or custody for purpose of adoption decree, what must the parties do?

The parties should apply to the Department of State for a Hague Adoption Certificate (HAC) or Hague Custody Declaration (HCD) in order for the adoption or grant of custody to be recognized by the receiving country.

What is a Hague Adoption Certificate (HAC)?

It is a document issued by the Department of State in its role of U.S. Central Authority for the Convention certifying that the U.S. adoption has been completed in accordance with the Convention and the IAA. Convention Article 23 requires the issuance of this document by the country of origin. The HAC entitles the adoption to recognition in the United States and other Convention countries.

What is a Hague Custody Declaration (HCD)?

It is a document issued by the Department of State in its role of U.S. Central Authority for the Convention declaring that custody of a child for purposes of adoption has been granted in the U.S. in accordance with the Convention and the IAA. Once the receiving country has the HCD, it may grant the final adoption and issue an Article 23 Convention certificate. Then the adoption is entitled to recognition in the receiving country and other Convention countries, including the United States.

What State court determinations are required to support an HAC or HCD application?

The application for a Hague Adoption Certificate or a Hague Custody Declaration must contain an official copy of the State adoption court's findings:

- That the child is eligible for adoption;

- That the adoption or proposed adoption is in the child's best interests;
- Granting adoption or custody for purposes of adoption; and
- Verifying that substantive regulatory requirements set forth in 22 CFR 97.3 have been met.

What are the new reporting requirements for outgoing cases?

22 CFR part 99 outlines new reporting requirements for outgoing Convention and non-Convention cases. In summary, the reporting provider (typically the primary provider in Convention cases or the provider responsible for child placement in non-Convention cases) reports to the Department of State's Office of Children's Issues for each outgoing case:

- (1) Name, date of birth of child, and place of birth of child;
- (2) The U.S. State from which the child is emigrating;
- (3) The country to which the child is immigrating;
- (4) The U.S. State where the final adoption is taking place, or the U.S. State where legal custody for the purpose of adoption is being granted and the country where the final adoption is taking place; and
- (5) Its name, address, phone number, and other contact information.

This report is required within 30 days of learning that the adoption case involves emigration of a child from the United States to a foreign country.

If the child is a US citizen, does the child retain US citizenship or acquire the citizenship of the receiving country?

The child retains his/her U.S. citizenship but may also acquire the citizenship of the prospective adoptive parents depending on the citizenship status of the parents and the laws of the receiving country. In other words, the child may become a dual citizen. The Convention requires that the emigrating child be authorized to reside permanently in the receiving country.

For more information please see our website at travel.state.gov
Or contact the U.S. Central Authority at AdoptionUSCA@state.gov.