



Hopscotch Adoptions, Inc.
1208 Eastchester Drive
Suite 120
High Point, NC 27265
hopscotchadoptions.org
PH 1.336.899.0068

FAQ: Adoptions by Prospective Adoptive Parents who Reside Outside of the United States

The following information is intended to respond to frequently asked questions from accredited adoption service providers (ASP) and U.S. citizen prospective adoptive parents (PAP) who reside outside of the United States at the time of an intercountry adoption. Such families are often referred to as "expatriates," or "expats." Regardless of where a PAP resides, ASPs are required to comply with both foreign and U.S. law, including the federal regulations at 22 CFR 96.

U.S. law provides three paths for a U.S. citizen who seeks to adopt a child from another country and immigrate that child to the United States. The U.S. Citizenship and Immigration Services (USCIS) brochure, *"I am a U.S. Citizen: How do I Immigrate an Adopted or Prospective Adopted Child or Help My Adopted Child Become a U.S. Citizen or U.S. Permanent Resident?"*, provides an overview of the three processes. This FAQ pertains to intercountry adoptions under the Hague Convention or the Orphan processes and does not address the Family-Based Petition process (also referred to as the I-130 process.)

U.S. Citizenship and Immigration Services (USCIS) will also be adding information about intercountry adoptions by expat PAPs on its website. Please monitor www.uscis.gov/adoption.

Background Information

- o [Understanding the Hague Adoption Convention](#)
- o [Hague Convention Countries](#)
- o [Home Study Requirements](#)
- o [Adoption from a Specific Country \(this link includes a searchable database\)](#)
- o [Adoption Process - Hague Convention Countries](#)
- o [Adoption Process - Non-Convention Countries](#)

Q1: What are the first steps that U.S. citizen PAPs who reside outside the United States (often referred to as "expatriates," or "expats") should take before beginning an adoption?

U.S. citizens residing outside of the United States may be subject to the adoption laws and procedures of the country of their residence, as well as applicable U.S. legal requirements and the laws of the adopted child's country of origin. All U.S. citizen PAPs who reside outside of the United States and wish to adopt a child in the country of residence or in any third country, should first contact the appropriate adoption authority in their country of residence to understand the process they need to follow as U.S. citizens residing in that country. Contact information for the Central Authority for the Hague Adoption Convention in [Convention countries](#) or for the adoption authority in non-Convention countries can be found under the "contact information" tab on the relevant [country information page](#) on the Office of Children's Issues website.

U.S. Citizen PAPs Residing in Convention Countries Other than the United States

The Hague Adoption Convention requires a determination of where a PAP is "habitually resident." The Central Authority of the PAP's country of residence (foreign Central Authority) will generally determine whether it considers the PAP to be habitually resident in that country for the purpose of adoption under the Hague process. Each Convention country has its own laws for determining the habitual residence of the PAP, including foreign government and military personnel who are living in that country. It is critical to proceed according to the country of residence's determination. In some cases, the U.S. Central Authority (USCA) will liaise with the foreign Central Authority upon their request or as appropriate in making a habitual residence determination.

In situations involving PAPs who intend to adopt a child in a third country (e.g., not the country of the PAP's residence), PAPs should contact the immigration authorities in the country of residence prior to beginning the adoption process to be sure the adopted child can enter and reside with the adoptive parent and to understand any requirements or limitations on the child's legal residence there.

For PAPs who reside in a Convention country and wish to adopt a child habitually resident in **the same Convention country as their country of residence:**

- If the foreign Central Authority determines that a PAP is not habitually resident in the country of residence (and there is no basis for the PAP to be found habitually resident in another Convention country other than the United States at the time the adoption is initiated), the PAP should proceed with an intercountry adoption under the [U.S. Hague Convention process, if the child has or will move between the United States and the Convention country](#).
- If the foreign Central Authority, (in some cases, in consultation with the USCA, as appropriate) determines the U.S. citizen PAP **is** habitually resident in the country of residence and instructs the PAP to proceed with the adoption as a domestic adoption, the PAP should complete the adoption according to the domestic adoption procedures, unless the child has or will move between the United States and the Convention country, in which case the PAPs should proceed with an intercountry adoption under the U.S. Hague Convention process.
 - o Note: An adoption of a child in a foreign country by a U.S. citizen alone will not convey U.S. immigration status to the child. If the PAP wants to later immigrate the child to the United States or obtain U.S. citizenship and/ or evidence of U.S. citizenship for the child, additional steps will need to be taken. It is important to obtain information on acquiring and documenting U.S. citizenship for a child who is adopted in a foreign country through a domestic adoption.
 - o U.S. Citizenship and Immigration (USCIS)'s website has helpful information in the section on [Other Adoption Related Immigration](#) that may apply to this scenario.

For PAPs who reside in a Convention country and wish to adopt a child habitually resident in a **third Convention country or a child in a non-Convention country**:

- If the Central Authority of the PAPs' country of residence determines that the U.S. citizen PAPs are not habitually resident in the country of residence (and there is no basis for the PAPs to be found habitually resident in another Convention country, other than the United States), the PAPs may proceed with the adoption of a child from a third country as an intercountry adoption from the child's country of origin to the United States. The PAPs will need to follow:

- o the applicable intercountry adoption process in the third country; and
 - § the [U.S. Hague Convention process](#) if the third country in which the child is habitually resident in a Convention country; or
 - § the [orphan process](#) if the third country in which the child is in a non-Convention country.

- If the Central Authority of the PAPs' country of residence determines, in consultation with the USCA, as appropriate, the PAPs are habitually resident in that country, the PAPs would need to follow the country of residence's laws and procedures for completing an intercountry adoption.
 - o Note: an adoption of a child in a foreign country by a U.S. citizen alone will not convey U.S. immigration status or U.S. citizenship to the child. If the PAP wants to later immigrate the child to the United States or obtain U.S. citizenship and/or evidence of U.S. citizenship for the child, additional steps will need to be taken.

PAPs Residing in Non-Convention Countries

The competent adoption authority in a non-Convention country will determine the PAP's status in the country of residence for the purpose of adoption and should provide information regarding relevant laws and procedures for U.S. citizens who wish to adopt while residing there. PAPs may also wish to consult a local attorney. In situations involving PAPs who intend to adopt a child from a third country, it is critical to contact the immigration authorities in the PAPs' country of residence **prior to beginning the adoption process** to be sure the adopted child can enter and reside with the adoptive parents and to understand any limitations on the child's legal residence there.

IMMIGRANT VISAS FOR ADOPTED CHILDREN

Q2: What are the different immigrant visa classifications for adopted children?

Information about [visa categories](#) is available on the Department of State's website.

Children adopted from Convention countries who intend to reside in the United States may be eligible for immigrant visa categories IH-3 or IH-4. A

consular officer may issue an IH-3 visa if there is a full and final adoption abroad or an IH-4 visa if the PAPs have legal custody of the child and will complete the final adoption in the United States or only one parent of a married couple adopted the child abroad. Part 2 of the Form I-800 petition asks whether the PAPs are seeking an immigrant visa or a non-immigrant visa for their child. PAPs should answer that question accurately, and if their family circumstances change, they should immediately notify the U.S. Embassy or Consulate processing the Form I-800 petition and visa application.

Children adopted from non-Convention countries who intend to reside in the United States may be eligible for immigrant visa categories IR-3 or IR-4. A consular officer may issue an IR-3 visa if there is a full and final adoption abroad and at least one of the adoptive parents personally saw and observed the child before or during the adoption proceedings abroad. A consular officer may issue an IR-4 visa if the PAPs have legal custody of the child and will complete the final adoption in the United States, no parent has seen and observed the child before or during the adoption proceedings, or only one parent of a married couple adopted the child abroad.

Q3: What determines whether a child adopted by a U.S. citizen parent residing outside the United States is eligible for an immigrant visa or a non-immigrant visa?

Consular officers determine each applicant's visa eligibility on a case-by-case basis in accordance with the Immigration and Nationality Act (INA) and other applicable law, related regulations, and the Department of State's Foreign Affairs Manual (FAM). PAPs determine whether to apply for an immigrant visa or non-immigrant visa depending upon whether they intend to immigrate with the adopted child to the United States to reside permanently, in which case an immigrant visa would be appropriate, or to visit the United States temporarily, in which case a non-immigrant visa would be appropriate. The consular officer will determine whether or not the applicant is qualified for the visa for which the applicant has applied.

Q4: What documents do PAPs have to submit to apply for an immigrant visa for an adopted child?

PAPs must submit evidence of an approved immigrant petition ([Form I-0](#), Petition to Classify Orphan as an Immediate Relative or [Form I-800](#), (Petition to Classify Convention Adoptee as an Immediate Relative), an immigrant visa application, and all standard supporting documentation. Further information about the [Immigrant Visa Process](#) is available on the Department of State's website. One of the required

forms is either a [Form I-864](#), *Affidavit of Support Under Section 213A of the INA* or [Form I-864W](#), *Request for Exemption for Intending Immigrant's Affidavit of Support*. Please note that sponsors who are required to file a Form I-864 must be domiciled in the United States or any territory or possession of the United States. See USCIS's [website](#) for the Form I-864 and Form I-864W instructions, including information regarding domicile and how certain individuals employed overseas may be considered domiciled in the United States.

Q5: What is the validity period of an immigrant visa?

Typically, the maximum validity period for immigrant visas is six months, which means that the visa can only be used to apply for entry to the United States during that six month period. However, in accordance with applicable regulations (22 C.F.R. 42.72) an adopted child may qualify for an immigrant visa with up to three years of validity if:

- 1) one of the U.S. citizen adoptive parents is serving abroad in the U.S. Armed Forces;
- 2) one of the U.S. citizen adoptive parents is employed abroad by the U.S. Government; or
- 3) one of the U.S. citizen adoptive parents is temporarily abroad on business.

Q6: If an adopted child enters the United States with an IR-3 or IH-3 immigrant visa, will the child automatically be a U.S. citizen?

Automatic acquisition of citizenship means that, when all relevant statutory conditions are satisfied, citizenship is acquired by operation of law.

Under the Child Citizenship Act of 2000 (CCA), in the case of a child (under age 18) admitted to the United States with an IR-3 or IH-3 visa, acquisition of citizenship generally occurs when the child is residing in the United States in the legal and physical custody of his/her U.S. citizen adoptive parent, pursuant to a lawful admission for permanent residence in the United States. If the requirements of the CCA are met, the child may be issued a U.S. passport and/or Certificate of Citizenship.

When a child is admitted on an IR-3 or IH-3 visa, if USCIS determines the requirements of the CCA are met, it will issue a Certificate of

Citizenship to the child. A child adopted abroad by a U.S. citizen who enters the United States on an IR-3 or IH-3 visa, but who does not reside in the United States in the U.S. citizen parent's legal and physical custody before the child's 18th birthday, is not eligible for automatic citizenship, but is granted lawful permanent residence upon entry and may then be issued a Lawful Permanent Resident Card (i.e., "green card"). Please see Q7 for more information.

See the following resources for additional information:

On USCIS's website - [U.S. Citizenship for an Adopted Child](#)

On the Department's website - [Acquiring U.S. Citizenship for an Adopted Child and Obtaining Citizenship or Documenting Acquired Citizenship for Adopted Children](#)

Q7: What happens if an adopted child is admitted to the United States with an IR-3 or IH-3 visa, obtains a passport and/or certificate of citizenship, and departs shortly thereafter?

If the child was admitted to the United States with an IR-3 or IH-3 visa, but departed the United States without residing in the United States in the U.S. citizen parent's legal and physical custody, the child has not met the requirements for automatic citizenship under the CCA. In such scenarios, USCIS may cancel a previously-issued Certificate of Citizenship (COC) and the Department of State may revoke a previously-issued passport. The child may, however, be a Lawful Permanent Resident (LPR). An LPR may travel outside the United States; however, if the LPR remains outside of the United States for an extended period of time, s/he may be deemed to have abandoned his/her LPR status. For additional information about LPR travel and status, please see the USCIS webpage [International Travel as a Permanent Resident](#) and [Maintaining Permanent Resident Status](#).

Q8: If an adopted child enters the United States with an IR-4 or IH-4 visa, will the child automatically be a U.S. citizen?

No. In the case of a child admitted to the United States with an IH-4 or IR-4 visa, USCIS will automatically issue the child a Lawful Permanent Resident Card ("green card"). The adoptive parent who is residing in the United States with the child must take steps to satisfy any remaining requirements of the state or commonwealth in which the family resides, as prescribed under INA Section 320, including finalization or recognition of the adoption, for the child to acquire

citizenship under the CCA. A parent residing in the United States with their adopted child may subsequently file a [passport application](#) and/or USCIS [Form N-600, Application for Certificate of Citizenship](#). The [Form N-600 FAQ](#) may also provide helpful information.

See [U.S. Citizenship for an Adopted Child](#) for more information on how children issued IR-4 and IH-4 visas may acquire or document U.S. citizenship.

Q9: What happens if an adopted child enters with an IR-4 or IH-4 visa and departs the United States shortly thereafter?

A child admitted to the United States with an IR-4 or IH-4 visa will become a Lawful Permanent Resident (LPR) upon admission. The adoptive parent(s) will need to take additional steps for their child to acquire U.S. citizenship.

An LPR may travel outside the United States; however, if the LPR remains outside of the United States for an extended period of time, s/he may be deemed to have abandoned his/her LPR status. For additional information about LPR travel and status. Please see the USCIS webpage [International Travel as a Permanent Resident and Maintaining Permanent Resident Status](#).

For additional information, see also the USCIS publication [U.S. Citizenship for an Adopted Child](#).

Q10: If an expat PAP intends to relocate back to the United States soon after they finalize the child's adoption, which category of visa should they apply for?

PAPs determine whether to apply for an immigrant visa or non-immigrant visa depending upon whether they intend to immigrate with the adopted child to the United States to reside permanently, in which case an immigrant visa would be appropriate, or to visit the United States temporarily, in which case a non-immigrant visa would be appropriate. The consular officer will determine whether or not the applicant is qualified for the visa.

Q11: If an expat PAP is adopting a child in a country other than the country of residence, what steps should be taken to ensure the child is able to return with the PAP to the country of residence?

Prior to initiating the adoption process, the PAP should consult with the immigration authorities in the country of residence to determine whether the adopted child can enter and reside with the parent both prior to and after child has documentation of U.S. citizenship. The U.S. government cannot authorize the entry into or legal residence of the child in another country. The country of residence's refusal to grant a visa to the child or allow the child to enter that country and reside with the PAPs is not a legal basis for issuance of a specific category of U.S. visa.

PAPs should weigh carefully any decision to proceed with the adoption of a child who will not be permitted to enter and reside with them in the country of residence. PAPs who are adopting a child in the same country of their residence should seek information regarding how adoption by a U.S. citizen will impact the child's citizenship in the country of origin and whether the child will be permitted to maintain the country of origin passport or other evidence of residency.

Q12: What can the U.S. Embassy do to assist PAPs to obtain approval from the PAPs' country of residence for the adopted child to reside with them prior to the child acquiring and obtaining documentation of U.S. citizenship?

PAPs are responsible for seeking any necessary approvals from relevant authorities in their country of residence for their adopted child to enter and reside with them in their country of residence. The U.S. Embassy does not have a role in facilitating or advocating for such approval.

NON-IMMIGRANT VISAS

Q13: What determines whether a child adopted by a U.S. citizen parent residing outside of the United States is eligible for a non-immigrant visa for naturalization purposes?

An adoptive parent who is residing abroad with their adopted child, who wishes for their child to naturalize and obtain U.S. citizenship and a Certificate of Citizenship may file [Form N-600K, Application for Citizenship and Issuance of Certificate Under Section 322](#). Upon approval, the adoptive parent may then apply for the child's U.S. passport.

A child adopted by U.S. citizens residing overseas may be eligible for a B-2 visitor visa for the [purpose](#) of traveling to the United States to

naturalize as a U.S. citizen under [INA Section 322](#). To be eligible for a B-2 visa, the child must meet all of the following requirements:

- 1) demonstrate an intent to return to a residence abroad after a temporary stay in the United States;
- 2) demonstrate s/he has a pending [Form N-600-K](#), Application for Citizenship and Issuance of Certificate Under Section 322, with USCIS; and
- 3) have an appointment notice from USCIS for a naturalization interview in the United States.

For information about the N-600K process and scheduling a naturalization interview, please see the USCIS website.

If a child from a Convention or non-Convention country would like to travel to the United States for a temporary visit for another purpose, the PAPs may also apply for a non-immigrant visa. A consular officer will determine each applicant's visa eligibility on a case-by-case basis in accordance with the Immigration and Nationality Act (INA), related regulations, and the Department of State's Foreign Affairs Manual (FAM).

Q14: If an adopted child cannot apply for a B-2 visa because s/he does not yet have a pending Form N-600K and a scheduled naturalization interview, can the PAPs apply for a non-immigrant visa to travel to the United States for a temporary visit?

If an adopted child from a Convention or non-Convention country would like to travel to the United States for a temporary visit (e.g., medical treatment, extended family visit), the PAPs may apply for a non-immigrant visa. It is the PAPs' burden to demonstrate that the adopted child has a foreign residence that s/he has no intention of abandoning. A consular officer will determine each applicant's visa eligibility on a case-by-case basis in accordance with the Immigration and Nationality Act (INA), related regulations, and the Department of State's Foreign Affairs Manual (FAM). ***Please note that federal regulations may prevent PAPs from adjusting the immigration status of an adopted child who entered the United States to become a lawful permanent resident.***

Under no circumstances should PAPs plan to have a child enter the United States with a non-immigrant visa with the intent to keep the child in the United States permanently. If a PAP intends to reside permanently in the United States with an adopted child, then the PAP must apply for an immigrant visa.

Q15: If the child’s country of origin cancels the child’s passport after the adoption but prior to the Form N-600K appointment, can the child subsequently be issued a visa to travel to the United States?

If an adopted child does not have a passport or other travel document, the adopted child would need a passport waiver in order to travel to the United States. The PAPs can discuss this option with the consular officer adjudicating the non-immigrant visa application.

HOME STUDIES

Q16: What is the role of USCIS regarding home studies?

U.S. Citizenship and Immigration Services (USCIS) has jurisdiction over most matters pertaining to home studies for PAPs. USCIS reviews whether a home study meets certain requirements under federal law. USCIS has general [Home Study Information](#) available on its website.

Questions about USCIS’s role, including all questions about how to comply with [8 CFR 204.311](#), should be directed to the [USCIS Adoption Unit](#).

Q17: What is the role of the Department of State regarding home studies?

22 CFR 96.47, which discusses ASP obligations for preparation of home studies in incoming cases, applies to families residing both inside or outside of the United States. The Department of State oversees the work of the accrediting entity, which has responsibility for determining whether accredited ASPs have met their obligations under this regulation.

Please see the [FAQ on Conducting Home Studies for American Citizens Residing Abroad in Incoming/Immigrating Convention Cases](#) for additional information. Since the Intercountry Adoption Universal Accreditation Act (UAA) went into effect on July 14, 2014, this guidance applies to both Convention and non-Convention cases.

Q18: Does the home study have to comply with the laws of the country of residence?

Yes. Accredited ASPs must comply with the Intercountry Adoption Act, the Intercountry Adoption Universal Accreditation Act, 22 CFR Part 96 Subpart F, laws of the state(s) in which the provider operates, and the laws of the countries in which the ASP is operating. In addition, 22 CFR 96.46(a)(1) requires that the ASP, "when acting as the primary provider ... ensures that each ... foreign supervised provider is in compliance with the laws of the foreign country in which it operates." ***These requirements apply to both Convention and non-Convention intercountry adoption cases and countries.***

Q19: Is the concept of habitual residence relevant if the expat PAPs live in a non-Convention country?

PAPs are subject to the laws of the country in which they reside, and under federal regulations, accredited ASPs are required to comply with the laws of any jurisdiction within which it operates.

Habitual residence is a term used in the Convention is not typically relevant to non-Convention countries. As discussed in Q1, the competent adoption authority in a non-Convention country will determine the PAP's status in the country of residence for the purpose of adoption and should provide information regarding relevant laws and procedures for U.S. citizens who wish to adopt while residing there.

Q20: When working with an expat military family, does the local home study preparer have to sign a supervised provider agreement?

Yes.

Q21: What specific authorization does an ASP need in order to do a home study for a PAP living outside of the United States? Are there exceptions for PAPs residing on a military base outside of the United States?

Please review information about [Conducting Home Studies for U.S. Citizens Abroad](#) on the Department's website. Since the Intercountry Adoption Universal Accreditation Act (UAA) went into effect on July 14,

2014, this guidance applies to both Convention and non-Convention cases.

Authorization requirements may vary among countries and may also change from time to time. PAPs should consult with the appropriate authorities in the country where the home study will take place. Home studies for U.S. citizens on military bases planning to adopt are subject to the same home study requirements that apply to those PAPs living off the base, and ASPs may be required to meet other requirements particular to the base in question. PAPs should consult with base authorities for further information.

Q22: Can expat PAPs have their home study completed by a local social services agency in the country of their residence?

Under the Department of State’s accreditation regulations, an agency or person conducting a home study abroad in incoming cases must be either the primary provider or a supervised provider, in accordance with 22 CFR 96.2 and 96.14(c). Persons or entities conducting home studies abroad may not conduct them as exempted providers, unless the home study is reviewed and approved by an ASP in accordance 22 CFR 96.47(c) and 96.53(b). (See also 22 CFR 96.12(a).) If a local social services agency were to perform the home study, it could only do so if it were formally supervised under section 96.46, or if the social services agency is a foreign public authority (e.g., a government entity), in which case supervision by the primary provider is not required.

FORM N-600K AND APPOINTMENTS

Q23: How can adoptive parents schedule the Form N-600K appointment?

[Form N-600K](#), *Application for Citizenship and Issuance of Certificate Under Section 322*, and all related procedures fall under the jurisdiction of USCIS.

The following USCIS publications may provide helpful information:

[Tip Sheet: Applying for Form N-600K, Application for Certificate of Citizenship](#)

[U.S. Citizenship for an Adopted Child](#)

Note: USCIS intends to publish information about Families Residing Abroad on its website; please monitor www.uscis.gov/adoption for this document.

Questions about the [Form N-600K](#) and all related procedures should be directed to USCIS.

OTHER:

Q24: Can the Office of Children’s Issues or the U.S. Embassy assist ASPs with obtaining information about a foreign country’s laws?

ASPs should use their supervised providers, professional contacts, or attorneys to conduct research on foreign laws that define habitual residence and govern adoption, including the preparation of home studies for U.S. citizens who are residing in the country. ASPs may also contact the Central Authority or competent adoption authority directly for question about foreign laws.

Q25: Do the ASP’s post-adoption reporting obligations differ when the adoptive parents are expats?

The child’s country of origin determines [post-adoption reporting requirements](#), which are generally the same for all adoptive parents, regardless of whether the parents live in or outside the United States. The Office of Children’s Issues encourages ASPs to implement the same or similar practices on post-adoption reporting for expat clients as are applied to clients who reside in the United States.

Q26: Does an ASP need a foreign country’s authorization to conduct post-placement/adoption reporting visits?

Under federal regulations, accredited ASPs are required to comply with the laws of any jurisdiction in which they operate.

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