

Department of State

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or other competent authority in the child's country of origin.

(c) The agency or person takes all necessary and appropriate measures, consistent with the procedures of the Convention country, to obtain permission for the child to leave his or her country of origin and to enter and reside permanently in the United States.

(d) Where the transfer of the child does not take place, the agency or person returns the home study on the prospective adoptive parent(s) and/or the child background study to the authorities that forwarded them.

(e) The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary identifies are required to comply with the Convention, the IAA, or any regulations implementing the IAA.

STANDARDS FOR CASES IN WHICH A CHILD IS EMIGRATING FROM THE UNITED STATES (OUTGOING CASES)

§ 96.53 Background studies on the child and consents in outgoing cases.

(a) The agency or person takes all appropriate measures to ensure that a child background study is performed that 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 child background study must include the following:

(1) Information that demonstrates that consents were obtained in accordance with paragraph (c) of this section;

(2) Information that demonstrates consideration of the child's wishes and opinions in accordance with paragraph (d) of this section and;

(3) Information that confirms that the child background study was prepared either by an exempted provider or by an individual who meets the requirements set forth in § 96.37(g).

(b) Where the child background study is not prepared in the first instance by an accredited agency or temporarily accredited agency, the agency or person ensures that the child background study is reviewed and approved in writing by an accredited agency or tempo-

rarily accredited agency. The written approval must include a determination that the background study includes all the information required by paragraph (a) of this section.

(c) The agency or person takes all appropriate measures to ensure that consents have been obtained as follows:

(1) The persons, institutions, and authorities whose consent is necessary for adoption have been counseled as necessary and duly informed of the effects of their 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;

(2) All such persons, institutions, and authorities have given their consents;

(3) The consents have been expressed or evidenced in writing in the required legal form, have been given freely, were not induced by payments or compensation of any kind, and have not been withdrawn;

(4) The consent of the mother, where required, was executed after the birth of the child;

(5) The child, as appropriate in light of his or her age and maturity, has been counseled and duly informed of the effects of the adoption and of his or her consent to the adoption; and

(6) The child's consent, where required, has been given freely, in the required legal form, and expressed or evidenced in writing and not induced by payment or compensation of any kind.

(d) If the child is twelve years of age or older, or as otherwise provided by State law, the agency or person gives due consideration to the child's wishes or opinions before determining that an intercountry placement is in the child's best interests.

(e) The agency or person prior to the child's adoption takes all appropriate measures to transmit to the Central Authority or other competent authority or accredited bodies of the Convention country 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. In doing so, the agency or person, as required by Article 16(2) of the Convention, does not reveal the identity of

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the mother or the father if these identities may not be disclosed under State law.

§ 96.54 Placement standards in outgoing cases.

(a) Except in the case of adoption by relatives or in the case in which the birth parent(s) have identified specific prospective adoptive parent(s) or in other special circumstances accepted by the State court with jurisdiction over the case, the agency or person makes reasonable efforts to find a timely adoptive placement for the child in the United States by:

(1) Disseminating information on the child and his or her availability for adoption through print, media, and internet resources designed to communicate with potential prospective adoptive parent(s) in the United States;

(2) Listing information about the child on a national or State adoption exchange or registry for at least sixty calendar days after the birth of the child;

(3) Responding to inquiries about adoption of the child; and

(4) Providing a copy of the child background study to potential U.S. prospective adoptive parent(s).

(b) The agency or person demonstrates to the satisfaction of the State court with jurisdiction over the adoption that sufficient reasonable efforts (including no efforts, when in the best interests of the child) to find a timely and qualified adoptive placement for the child in the United States were made.

(c) In placing the child for adoption, the agency or person:

(1) To the extent consistent with State law, gives significant weight to the placement preferences expressed by the birth parent(s) in all voluntary placements;

(2) To the extent consistent with State law, makes diligent efforts to place siblings together for adoption and, where placement together is not possible, to arrange for contact between separated siblings, unless it is in the best interests of one of the siblings that such efforts or contact not take place; and

(3) Complies with all applicable requirements of the Indian Child Welfare Act.

(d) The agency or person complies with any State law requirements pertaining to the provision and payment of independent legal counsel for birth parents. If State law requires full disclosure to the birth parent(s) that the child is to be adopted by parent(s) who reside outside the United States, the agency or person provides such disclosure.

(e) The agency or person takes all appropriate measures to give due consideration to the child's upbringing and to his or her ethnic, religious, and cultural background.

(f) When particular prospective adoptive parent(s) in a Convention country have been identified, the agency or person takes all appropriate measures to determine whether the envisaged placement is in the best interests of the child, on the basis of the child background study and the home study on the prospective adoptive parent(s).

(g) The agency or person thoroughly prepares the child for the transition to the Convention country, using age-appropriate services that address the child's likely feelings of separation, grief, and loss and difficulties in making any cultural, religious, racial, ethnic, or linguistic adjustment.

(h) The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s) or the prospective adoptive parent(s);

(i) Before the placement for adoption proceeds, the agency or person identifies the entity in the receiving country that will provide post-placement supervision and reports, if required by State law, and ensures that the child's adoption record contains the information necessary for contacting that entity.

(j) The agency or person ensures that the child's adoption record includes the order granting the adoption or legal custody for the purpose of adoption in the Convention country.

(k) The agency or person consults with the Secretary before arranging for the return to the United States of any