

§ 204.302

the child's father has abandoned or deserted the child, or has disappeared from the child's life; or

(2) The child's father, when the competent authority has determined that the child's mother has abandoned or deserted the child, or has disappeared from the child's life; except that

(3) A child's parent is not a sole parent if the child has acquired another parent within the meaning of section 101(b)(2) of the Act and this section.

Suitability as adoptive parent(s) means that USCIS is satisfied, based on the evidence of record, that it is reasonable to conclude that the applicant is capable of providing, and will provide, proper parental care to an adopted child.

Surviving parent means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act and this section.

§ 204.302 Role of service providers.

(a) *Who may provide services in Convention adoption cases.* Subject to the limitations in paragraph (b) or (c) of this section, a U.S. citizen seeking to file a Form I-800A or I-800 may use the services of any individual or entity authorized to provide services in connection with adoption, except that the U.S. citizen must use the services of an accredited agency, temporarily accredited agency, approved person, supervised provider public domestic authority or exempted provider when required to do so under 22 CFR part 96.

(b) *Unauthorized practice of law prohibited.* An adoption agency or facilitator, including an individual or entity authorized under 22 CFR part 96 to provide the six specific adoption services identified in 22 CFR 96.2, may not engage in any act that constitutes the legal representation, as defined in 8 CFR 1.2, of the applicant (for a Form I-800A case) or petitioner (for a Form I-800 case) unless authorized to do so as provided in 8 CFR part 292. An individual authorized under 8 CFR part 292 to practice before USCIS may provide legal services in connection with a Form I-800A or I-800 case, but may not provide any of the six specific adoption services identified in 22 CFR 96.2, unless the individual is authorized to do

8 CFR Ch. I (1-1-14 Edition)

so under 22 CFR part 96 (for services provided in the United States) or under the laws of the country of the child's habitual residence (for services performed outside the United States). The provisions of 8 CFR 292.5 concerning sending notices about a case do not apply to an adoption agency or facilitator that is not authorized under 8 CFR part 292 to engage in representation before USCIS.

(c) *Application of the Privacy Act.* Except as permitted by the Privacy Act, 5 U.S.C. 552a and the relevant Privacy Act notice concerning the routine use of information, USCIS may not disclose or give access to any information or record relating to any applicant or petitioner who has filed a Form I-800A or Form I-800 to any individual or entity other than that person, including but not limited to an accredited agency, temporarily accredited agency, approved person, public domestic authority, exempted provider, or supervised provider, unless the applicant who filed the Form I-800A or the petitioner who filed Form I-800 has filed a written consent to disclosure, as provided by the Privacy Act, 5 U.S.C. 552a.

[72 FR 56854, Oct. 4, 2007, as amended at 76 FR 53782, Aug. 29, 2011]

§ 204.303 Determination of habitual residence.

(a) *U.S. Citizens.* For purposes of this subpart, a U.S. citizen who is seeking to have an alien classified as the U.S. citizen's child under section 101(b)(1)(G) of the Act is deemed to be habitually resident in the United States if the individual:

(1) Has his or her domicile in the United States, even if he or she is living temporarily abroad; or

(2) Is not domiciled in the United States but establishes by a preponderance of the evidence that:

(i) The citizen will have established a domicile in the United States on or before the date of the child's admission to the United States for permanent residence as a Convention adoptee; or

(ii) The citizen indicates on the Form I-800 that the citizen intends to bring the child to the United States after adopting the child abroad, and before the child's 18th birthday, at which time the child will be eligible for, and will