

NCFA USCIS Panel – Electronic Reading Room (ERR) Summary

June 21, 2022

On June 21, 2022, U.S. Citizenship and Immigration Services (USCIS) participated in a virtual panel in connection with the National Council for Adoption (NCFA) annual conference. USCIS representatives provided updates and answered many questions submitted in advance. The main topics discussed were case-processing; COVID-19-related issues; regulations, forms, and policy; and updates on Ukraine.

The following is a summary of the updates provided during the panel and questions and answers addressed during the panel.

Case Processing Topics

• **In-Country v. Domestic Form I-600 Filings**

- We received a question about whether orphan petitions filed in the child's country with the Department of State (DOS) are processed differently from those filed domestically with the USCIS National Benefits Center (NBC).
- While the legal requirements are the same for an orphan petition regardless of where it is filed, there are a few notable procedural differences between in-country DOS vs. domestic NBC processing.
- For Form I-600 orphan petitions filed directly with DOS in the child's country, prospective adoptive parents (PAPs) must already have a Form I-600A suitability application approved by USCIS. Additionally, Department of Homeland Security (DHS) regulations require the Form I-604, Determination on Child for Adoption (also known as the orphan determination) be completed by DOS before final Form I-600 orphan petition adjudication. If there are concerns identified as part of the orphan determination, or if the case is not clearly approvable, DOS is required by regulation to forward the case to USCIS for further review.
- For domestic filings with the NBC, PAPs may either first submit a Form I-600A suitability application and then a Form I-600 orphan petition. Alternatively, they may file just a Form I-600 petition and request both a suitability and orphan determination at the same time (also known as combination or combo filing). If USCIS determines that the child meets the definition of an orphan under U.S. immigration law, we approve the petition and then send the case to the corresponding U.S. embassy or consulate so that DOS may complete the required Form I-604 determination (or orphan determination). If we have an articulable concern during our review of the case, we may request that DOS complete the Form I-604 in advance of our decision on the orphan petition. If a concern is identified during the orphan determination, DOS will return the case to USCIS for further review (known as a consular return).
- In certain countries (Ethiopia and Taiwan), USCIS and DOS have Pre-Adoption Immigration Review (PAIR) programs. PAIR programs require the Form I-604 determination be completed before the final adoption or grant of custody in the child's country of origin.

- **Form I-604 Determinations**

- We have also heard some concerns regarding the amount of time a Form I-604 determination may take.
- The time necessary to complete a Form I-604 determination depends on the complexity of issues in a particular case and other factors including country conditions. These issues may significantly impact the overall processing time for an orphan petition.
- Generally, DOS conducts Form I-604 determinations on our behalf, and so USCIS defers to DOS on its processing times. COVID-19 and other in-country capacity and safety issues have greatly affected the length of orphan determinations in some instances. The [Department of State Non-Convention Adoption Cases webpage](#) has some basic information about Form I-604 determinations that may be helpful.
- USCIS strives to minimize any delays that prevent children from being with permanent families. In most cases, once the NBC approves the Form I-600, the case is then transferred to DOS for completion of the Form I-604, and USCIS no longer has jurisdiction.
- We understand that DOS aims to complete most Form I-604s within six months. If you are aware of any case that falls outside this timeframe, and you want to check on its status, please email the embassy or consulate with a copy to adoption@state.gov so they can inquire.

- **Biometric Refreshes**

- We received a question about whether USCIS will refresh fingerprints indefinitely, or if someone may need to appear in-person for biometrics.
- After initial suitability application approval, PAPs may request a one-time, no fee extension and biometric reuse. Additional extensions, however, typically require a new biometrics fee.
- When possible, we will use the biometrics we collected with a PAP's initial Form I-600A or Form I-800A if we extend their approval.
- If, for example, a PAP has a provisionally approved Form I-800 and needs to travel to the child's country of origin, but their underlying Form I-800A approval and biometrics results have expired, email the NBC (nbc.adoptions@uscis.dhs.gov) to request refreshed biometrics. The NBC will let PAPs know if they need to pay any additional biometrics fees.
- The NBC will reuse existing biometrics whenever possible. Only in rare occasions will someone who has already been fingerprinted have to reappear at a USCIS Application Support Center.

- **Processing Times**

- We were asked about the current average processing times for intercountry adoption cases and what timeframe is appropriate for follow-up.
- Current processing time for Forms I-600A, I-600, I-800A, and I-800 are listed on our [Check Case Processing Times](#) webpage.

- We continue to be well within our current goal processing timeframes. We have also added information on how to access case processing times to our [Hague](#) and [Orphan](#) process pages.
 - A variety of factors, including biometrics collection, security checks, requests for evidence, and other notices, impact case processing times. Intercountry adoptions are a priority adjudication for the agency, and we strive to adjudicate cases as quickly as possible.
 - USCIS hosted a national listening session in March 2022 related to improving communication on case process data for a wide range of USCIS adjudications. We continue to seek and encourage the public’s input so we can continue to improve how we display processing times in a meaningful and helpful way. Additional listening sessions on this topic are expected in the future. We also encourage the public to provide feedback on improving communication on case-processing data to ProcessingTimesFeedback@uscis.dhs.gov.
 - Please note that the same officers who monitor the NBC Adoptions Unit email box and call line also adjudicate the adoption cases.
 - If a PAP has a case that is outside the normal processing time and they have not received a notice or other communication from us, they may reach out to the NBC Adoptions Unit at nbc.adoptions@uscis.dhs.gov.
 - We have also added information on how to make an expedite request for eligible adoption cases to our [Adoption Contact Information webpage](#).
- **E-Filing, Email, and Efficiencies**
 - We received several questions/comments about what USCIS is doing to improve case processing efficiencies and suggestions that USCIS use email, text alerts, e-processing, e-signatures, etc.
 - We have answers posted on these issues in our [Electronic Reading Room](#) in a document entitled [“National Council for Adoption Annual Conference/USCIS Panel, September 21, 2021.”](#)
 - As we explained at last year’s NCFCA conference:
 - Many privacy constraints impact the NBC’s capacity in this area. For example, electronic submission needs to be done via a secure USCIS account.
 - Online filing is now available for Form I-130 cases. Currently, however, online secure accounts (called myUSCIS) are not yet available for all forms, including orphan and Hague adoption forms. We are working on developing online filing capabilities for additional forms, but we are not able to provide an estimated timeframe for the adoption forms.
 - In addition, certain documents must contain an original signature, like home studies, which cannot be submitted by e-mail.
 - USCIS only has the technical ability to send text alerts for certain application/petition receipts, and this does not currently include adoption-related forms.

- **Home Study Review and Updates**

- We also received a few questions/comments on USCIS home study review (especially of state pre-adoption requirements) and when DOS would ask to see a home study update before visa issuance.
- Intercountry adoption home studies must meet any state-specific requirements that apply to domestic adoption requirements in the PAP's actual or proposed state of residence, and if the child will be coming to the United States for adoption, must explain how the PAP will meet any state pre-adoption requirements.
- Our forms also ask PAPs to provide a written description of any pre-adoption requirements and cite any relevant state statutes and regulations.
- USCIS officers look at the scenario the home study preparer presents regarding state-specific and, if applicable, state pre-adoption requirements to assess if more information is needed.
- We issue a Request for Evidence if evidence is deficient in any required area, including evidence of compliance with any state-specific requirements and pre-adoption requirements.
- Using headings in a home study as appropriate can be helpful to guide the officer to where the home study addresses certain topics.
- We have information on our [Suitability and Home Study Information page](#) that explains our home study requirements and includes sample wording to help guide home study preparers.
- We also received questions about when DOS would ask to see a home study update before issuing a visa.
- When DOS adjudicates an adoption case, they look to see if the child who is seeking an immigrant visa matches the child characteristics USCIS has approved the family to adopt. If, for example, USCIS did not approve the family to adopt a child with special needs, but DOS sees that the [U.S. Embassy panel physician](#) has noted that the child has special needs, they will instruct the PAP to report this significant change to USCIS and obtain an updated suitability determination (including a home study update) as appropriate.
- USCIS is seeing an increase in PAPs not reporting significant changes to their home study preparer and to USCIS, such as changes in marital status, changes in household composition, a significant decrease in financial resources, etc. As a reminder, the duty of disclosure for PAPs who reside in the U.S. continues throughout the Hague and orphan adoption processes and until there is a final decision admitting the child to the U.S. with a visa. If PAPs fail to comply with their duty of disclosure, we may deny or revoke their application or petition

COVID-Related Issues

- **COVID-Related Flexibilities Extended**

- In response to the COVID-19 pandemic, [USCIS has extended certain flexibilities](#) to assist applicants, petitioners, and requestors.
- [Our USCIS Response to COVID-19 webpage](#) explains these flexibilities that may help PAPs during this time, including extended deadlines to respond to requests for

evidence, notices of intent to deny, or to file an appeal.

- **COVID-19 Vaccination Requirements**

- We were asked if it is possible to waive the COVID-19 vaccination requirement for immigrating children so that parents can decide if they want to vaccinate their children or not.
- The COVID-19 vaccination requirement does not originate from USCIS. This is a Centers for Disease Control and Prevention (CDC) requirement that relates to all immigrant visa processing.
- The CDC Technical Instructions for panel physicians requires immigrant visa applicants, including children who fall within the vaccine authorization age, to receive a full COVID-19 vaccine series as part of their medical exam prior to being issued a visa.
- This means that all adoptive children who fall within the vaccine authorization age must do one of the following to get a visa and immigrate:
 - Receive a full vaccine series;
 - Obtain a blanket waiver from the panel physician; or
 - Obtain an individual waiver based on religious beliefs or moral convictions by submitting [Form I-601, Application for Waiver of Grounds of Inadmissibility](#).
- Panel physicians may grant blanket waivers in countries where the vaccine is not routinely available, in limited supply, is not age appropriate, or is not advisable due to a medical condition.
- For PAPs who filed a Form I-601 with USCIS, we have heard some concerns about processing times. The current estimated processing time is listed on our [Check Case Processing Times](#) webpage. Please know that Form I-601 waivers are not processed at the National Benefits Center (NBC). The USCIS Nebraska Service Center has jurisdiction over most Form I-601 applications.
- If a PAP believes they have urgent and compelling reasons to [ask that USCIS expedite their Form I-601 waiver](#), they may attach a written request with their Form I-601 application. Once they receive their receipt notice, they may also send an email to the Nebraska Service Center at ncscfollowup.nsc@uscis.dhs.gov requesting an expedite.
- If a PAP has already submitted their Form I-601 application, they can make an expedite request after-the-fact by emailing the Nebraska Service Center at that same email address.
- **UPDATE:** After the USCIS panel presentation, DOS published a revised version of the Affidavit Concerning Exemption from Immigrant Vaccination Requirements for a Foreign Adopted Child (DS-1981). This affidavit may be used to request an exemption from immunization requirements for certain orphan or Hague Convention adoptees age 10 or younger. See the [DS-1981](#) for more information.

- **A-File Requests and File Delays**

- We have also received questions and concerns about significant delays in the transfer of files to the NBC for review for some naturalized U.S. citizen PAPs who file suitability applications (Form I-600A, Form I-600 combo filings, and Form I-800A).

- USCIS generally reviews all immigration records that are associated with an applicant, petitioner, or beneficiary. These records are stored at various facilities across the country.
- COVID-19 did cause significant delays in obtaining retired alien files (or A-files) stored at Federal Records Centers operated by the National Archives and Records Administration (NARA). However, through a combination of NARA and USCIS efforts, the backlog in file requests has dropped significantly. We anticipate that future delays will be minimal and that file request response times will soon be back to normal.

Regulations, Forms, Policy, and Updates

• Fee Rule

- As many of you know, USCIS' Fee Rule was preliminarily enjoined by a District Court on Sept. 29, 2020, so USCIS cannot implement or enforce any part of that rule that, among many things, proposed new USCIS fees, creating a Supplement 3 for orphan cases, and changing the Form I-600A approval period to mirror the 15-month biometric validity period.
- Any new USCIS rules will be published in the Federal Register.
- A timeline target for the publication of the new Fee Rule Notice of Public Rulemaking (or NPRM) will be announced in the upcoming Unified Agenda of Regulatory and Deregulatory Actions, which will be available at reginfo.gov/.

• NCFA Petition for Rulemaking

- We were also asked to provide an update on NCFA's request to have the Department of Homeland Security (DHS) promulgate regulations to allow noncitizens residing in the U.S. to use the U.S. Hague Adoption Convention process.
- While the response had been under review, DHS has since responded directly to NCFA.

• Form I-800A Supplement 3 Improvement

- Regarding adoption forms, we have heard that some families who have filed Form I-800 are choosing to continue to file Form I-800A Supplement 3 to keep their Form I-800A validity period current even though there is no requirement to do so.
- Because there is no requirement to extend Form I-800A validity once a PAP has filed a Form I-800 petition, all options on the Supplement 3 for requesting an initial or subsequent extension include the language, "I have not yet submitted Form I-800 on behalf of a specific child."
- If a PAP chooses to extend their Form I-800A approval even though they have already filed a Form I-800, they may select the extension option on the form that best applies to them, and simply disregard that part of the language.
- We were asked about a timeline for clarifying this on the Supplement 3. USCIS resources for form revisions are currently primarily focused on form changes required by rulemaking.
- We thank you for raising this though and will take this into consideration for a future form revision.

- **Policy Updates**

- In terms of policy updates, we have several exciting updates and accomplishments to share.
- As you may be aware, in November 2021, we published the [adoptions volume](#) in the USCIS Policy Manual, which consolidated and clarified existing guidance from our legacy Adjudicator’s Field Manual (or AFM).
 - This is part of our broader effort to update and incorporate all policy guidance from different sources, including the AFM and policy memos into the USCIS Policy Manual.
 - This new Volume 5 of the USCIS Policy Manual includes parts on various adoption topics, including suitability determinations and the orphan, Hague, and family-based processes.
- In March 2022, we hosted a national listening session for stakeholders to provide feedback on how USCIS can update the USCIS Policy Manual guidance on adoption to enhance the process and limit burdens.
- We are pleased to see that some stakeholders are beginning to provide adoption-related policy suggestions via the “Feedback” tab on our USCIS Policy Manual pages.
- As we work to further build out adoption-related guidance in our Policy Manual, we continue to welcome your suggestions at policyfeedback@uscis.dhs.gov.

Ukraine

- **New USCIS Ukraine Webpage**

- We have received numerous questions from the public on how the situation in Ukraine is impacting Ukrainian children.
- In response, we have published a new webpage called [Adoption Information: Ukraine](#).

- **Adoption/Hosting**

- As you may be aware, the Ukrainian government has issued a [statement](#) expressing concern about moving Ukrainian children out of Europe, especially for the purposes of adoption. The Ministry of Social Policy of Ukraine has stated adoption in Ukraine is “impossible” at this time.
- Although we are still accepting Form I-600A applications and Form I-600 petitions for Ukraine, based on the Ukrainian government’s statement, if a petitioner has not already completed all the required adoption steps in Ukraine, beginning or continuing the adoption process may not be possible at this time.
- On June 11, 2022, the government of Ukraine announced that hosting programs may resume in certain circumstances but will not apply to children who are considered orphans or deprived of parental care under Ukrainian law.
- As the situation evolves, USCIS recommends reviewing DOS’ website for updates.
- You can find the links to DOS website on our [new Ukraine webpage](#).

- **Uniting for Ukraine (U4U) Program**

- Separate from adoption pathways, on April 21, 2022, the U.S. announced a key step toward fulfilling President Biden’s commitment to welcome Ukrainians fleeing

Russia's invasion. [Uniting for Ukraine](#) (U4U) provides a pathway for Ukrainian citizens and their immediate family members who are outside the U.S. to come and stay here temporarily for a two-year period of parole.

- Ukrainians participating in U4U must have a supporter in the U.S. who agrees to provide them with financial support for the duration of their stay in the United States.
- Our [Uniting for Ukraine](#) page contains additional detailed information on this special program.
- We were asked if the U4U program applies to children:
 - To be eligible for this U4U process, children under the age of 18 must be traveling to the U.S. in the care and custody of a parent or legal guardian, who is able to provide sufficient documentation of their relationship to the child.
 - Children who are not traveling with a parent or legal guardian, but who are coming to the United States to meet a parent or legal guardian, may instead seek parole through the standard Form I-131 parole process.
 - For more information on the requirements for requesting parole for children, please see our [Humanitarian or Significant Public Benefit Parole page](#).
- For information about immigration flexibilities available to those affected by the situation in Ukraine, see the USCIS webpage: [Immigration Help Available to Those Affected by Special Situations, Including the Invasion of Ukraine](#).