



Questions and Answers

February 23, 2010

Information for Adoptive Parents of Paroled Haitian Orphans Obtaining Lawful Permanent Residence (LPR) Status and U.S. Citizenship

Introduction:

Under normal circumstances, a child immigrating to the United States from Haiti as the adopted orphan child of a U.S. citizen is adopted before leaving Haiti, and is then admitted to the United States with an immigrant visa for Lawful Permanent Residence (LPR) status. The adopted child then acquires citizenship upon entry as specified in section 320 of the Immigration and Nationality Act (INA).

In light of the devastating earthquakes in Haiti, the Secretary of the Department of Homeland Security authorized Haitian children, who were adopted or were in the process of being adopted by American families prior to the earthquake, to be paroled into the United States. “Category 1” parolees are Haitian orphans who were already legally adopted in Haiti. “Category 2” parolees are certain Haitian orphans whose cases had not yet resulted in final adoptions. You may find more information about the parole policy on USCIS’ [Haiti Earthquake Response](#) page at www.USCIS.gov.

To determine what steps to take next, it is most important to understand where you were in the adoption process in Haiti, regardless of the category you believe your child fell within at the time of parole. The following is provided for informational purposes to U.S. citizen adoptive parents and prospective adoptive parents.

If	Next Steps for Obtaining LPR Status
<p>The adoption process was completed in Haiti before the child was paroled into the United States</p>	<p>After U.S. Customs and Border Protection (CBP) or the U.S. Department of Health and Human Services (HHS) has released the child into your physical custody, you should file the following forms BEFORE the child’s 16th birthday.</p> <p>These forms can be filed together to significantly reduce the processing time.</p> <ul style="list-style-type: none"> • Form I-600, Petition to Classify Orphan as an Immediate Relative, and • Form I-485, Application to Register Permanent Residence or Adjust Status. <p>After USCIS approves the Form I-485, you may file an Application for Certificate of Citizenship (Form N-600), to obtain evidence of citizenship for the child, or apply for a U.S. passport.</p> <p>You may file a Form I-600 after the child’s 16th birthday but before his or her 18th birthday, only if:</p> <ul style="list-style-type: none"> • You legally adopted the child’s birth sibling before his or her 16th birthday, or you filed a Form I-600 for the birth sibling before his or her 16th birthday, and • The birth sibling immigrated to the United States based on your legal adoption of him or her, or for the purpose of your legal adoption of the birth sibling.

<p>The child was paroled into the United States, but there was no actual adoption or grant of legal custody from a Haitian court</p>	<p>If you did not legally adopt the child in Haiti, you must decide whether to seek LPR status for the child as an “orphan” under the INA section 101(b)(1)(F) or as an “adopted child” under INA section 101(b)(1)(E).</p> <p><u>Orphan case</u></p> <p>DHS regulations, at 8 CFR 204.3(k)(3), allow for approval of a Form I-600 on behalf of a child in the United States in parole status.</p> <p>Under the DHS regulation, however, you must still adopt the child in Haiti.</p> <p>It is not known, currently when Haiti will be able to resume normal processing of adoption cases, or whether Haiti would require the child to return to Haiti for an adoption proceeding.</p> <p><u>Adopted child case</u></p> <p>Instead of following the Form I-600 process, you may adopt the child in the United States, under resident state laws and then wait to file a Petition for Alien Relative, (Form I-130), after the child qualifies to immigrate under INA section 101(b)(1)(E).</p> <p>This means that you can file the Form I-130 only after you have lived with the child for at least two years and have had legal custody of the child for at least two years.</p> <p>Note: the U.S. federal government’s release of the child into your <i>physical</i> custody is not <i>legal</i> custody for purposes of the adoption requirements for immigration as an adopted child.</p> <p>After the child has been released into your <i>physical</i> custody, you should file a petition to adopt the child with the proper court in your home state, which will establish that you are legally the child’s parents and that you have legal custody of your child.</p> <p>We urge you to begin the adoption process in your home state as soon as possible, because you must obtain the adoption decree <i>before</i> the child’s 16th birthday.</p> <p>If the child is age 16 when you adopt the child, then you will not be able to use the Form I-130 route under INA section 101(b)(1)(E).</p> <p>Filing a Form I-600 before the child’s 16th birthday does not meet the requirement of INA section 101(b)(1)(E) that the child must be adopted before the child’s 16th birthday.</p> <p>If the child is already age 16, you will need to wait until Haiti resumes processing of adoption cases, and obtain approval of your Form I-600 after you adopt the child in Haiti, provided that the Form I-600 was filed before the child turned age 16 (as in an ‘orphan’ case).</p> <ul style="list-style-type: none"> • The only exception to this is for a child whom you legally adopted after his or her 16th birthday but before his or her 18th birthday, if:
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	<ul style="list-style-type: none"> • The child is the birth sibling of another child who was legally adopted by you, if you adopted or filed a Form I-600 for the birth sibling before his or her 16th birthday, and • The birth sibling obtained LPR status based on adoption by you. <ul style="list-style-type: none"> • After you have had legal custody of the child and have resided with the child for two full years you should file both Form I-130 and Form I-485. • The period of legal custody will generally begin on the date of the adoption <i>unless</i> a state court in the United States grants you legal custody before the actual adoption. • The Form I-130 and Form I-485 can be filed together to significantly reduce the processing time. • After the Form I-485 is approved, you may file Form N-600 to obtain a Certificate of Citizenship or apply for a U.S. passport for the child.
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Questions & Answers

Q1. Are there any additional requirements from the Haitian government that I should be aware of during this process?

A1. The U.S. Department of State (DOS) is working closely with the Haitian government regarding the Haitian children, who were identified and matched for adoption by U.S. citizens before the earthquake, and who entered the United States under the special humanitarian parole program for those children. The DOS will inform adoptive parents on the Web page, www.adoption.state.gov, of any requests the Haitian government makes concerning these children and their adoption by U.S. parents.

For example, the DOS understands that the Haitian government may want adoptive parents to complete the Haitian adoption process at some point in the future. In addition, the Haitian government may wish that adoptive parents complete post-adoption reports about their adoptive children. We are seeking details on these and any other requests from the Haitian government. We strongly encourage adoptive parents to fulfill any such requests. Failure to respond appropriately could have an adverse impact on future adoptions from Haiti as well as other countries.

Q2. What if I had already filed a Form I-600 for my child?

A2. As indicated in the table above, if you have adopted the child in Haiti, and the child qualifies as an “orphan” as defined in section 101(b)(1)(F) of the INA, the Form I-600 may be approved, even after the parole of the child into the United States. If you have filed Form I-600 for a child who has been adopted in Haiti and it is approved or pending, you may file Form I-485 with USCIS.

However, if you are not able to complete an adoption in Haiti, and you decide to adopt the child in the United States instead, you will still need to file a Form I-130 and Form I-485 in order for the child to immigrate as your adopted child based on your adoption of the child in the United States, provided all of the relevant requirements are met.

Q3. Why is the age of my adoptive child important?

A3. For a Form I-130 case, U.S. immigration law requires that the child must be *adopted* before his or her 16th birthday. For a Form I-600 case, U.S. immigration law provides that the Form I-600 must be *filed* before the child’s 16th birthday.

The only exception to this is for a child whom you adopted or filed a Form I-600 for after his or her 16th birthday but before his or her 18th birthday, if:

- The child is the birth sibling of another child who you legally adopted, if you adopted or filed a Form I-600 for the birth sibling before his or her 16th birthday, and
- The birth sibling obtained LPR status in the United States based on adoption by you.

Q4. My adopted Haitian child entered the United States with an immigrant visa. Do I need to do anything else in order for my child to obtain evidence of U.S. citizenship?

A4. This depends on how your child was admitted to the United States.

- If your adopted child was admitted to the United States with an immigrant visa, he/she became a lawful permanent resident upon admission to the United States.
- If your child was admitted with an IR-3 immigrant visa, your child should receive a Certificate of Citizenship soon after admission.
- If your child was admitted with an IR-4 immigrant visa, you must complete the adoption process in the United States and file a Form N-600 if you wish to obtain a Certificate of Citizenship or apply for a U.S. passport for your child.
- If your adoptive child was admitted with an IR-2 visa (which is extremely rare), you may file a Form N-600 to obtain a Certificate of Citizenship or apply for a U.S. passport for your child.

Q5. My adoptive child's period of humanitarian parole will expire before the child acquires LPR status. What do I need to do?

A5. The expiration date for your child's parole is shown on the DHS Form I-94, issued upon the child's arrival in the United States. If your child's humanitarian parole is going to expire before the child acquires LPR status, you should apply for an extension of your child's humanitarian parole. Be sure to file the extension application before the period of parole expires. This is important because any lapse in your child's lawful immigration status could affect future applications.

To apply for an extension of parole with USCIS you must:

- File an [Application for Travel Document](#), (Form I-131), and on the first page write **'EXTENSION REQUEST'** in big, bold letters,
- Include the filing fee,
- File an [Affidavit of Support](#) (Form I-134),
- Include current supporting documentation, and
- Include a copy of your Form I-94, Arrival/Departure Record, which your child was issued upon parole into the United States.

You must submit requests for extensions of parole to USCIS at the following address:

Department of Homeland Security/USCIS
 Attn: Chief, Parole Branch
 20 Massachusetts Avenue, NW Suite 3300
 Washington, DC 20529-2100

USCIS recommends that you file for an extension of parole at least 30 days (and up to 120 days) before the expiration date on your Form I-94, Arrival/Departure Record.

Q6. When can my adoptive child travel outside the United States?

A6. Your child may travel outside the United States after the Form I-485 or N-600 is approved, and your child has received his or her permanent resident card or Certificate of Citizenship. Once your child is a citizen, he/she may need to obtain a passport to travel abroad and return to the United States.

Before the Form I-485 is approved, your child may travel if you file a form I-131, [Application for Travel Document](#), and your child has received the advance parole document, which may be used as a travel document for return travel to the United States.

Remember to check the CBP Web site, www.cbp.gov to determine what other documents your child will need to return to the United States.

You should also find out what documents any foreign country may require your child to have, such as a passport or visa, to enter and leave that country.

Q7. Where can I get the forms mentioned above?

A7. All USCIS forms are available for free download at <http://www.USCIS.gov/forms>. Individuals may also call the toll-free USCIS forms hotline, (800) 870-3676.