DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814

March 6, 1992

ALL COUNTY LETTER NO. 92-29

TO: ALL COUNTY WELFARE DIRECTORS
      ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
      ALL DSS ADOPTIONS DISTRICT OFFICES

SUBJECT: INDEPENDENT ADOPTION OF FOREIGN-BORN CHILDREN
            (This supersedes ACL No. 87-56)

The Department has received several inquiries about the
processing of an adoption petition when a California resident
wishes to adopt a foreign-born child who is currently residing in
the United States under a visa other than an I-600. An I-600
visa is granted specifically for the admittance of a child into
the country for the purpose of adoption.

Both federal law, 8 Code of Federal Regulations, Part 204, and
state law, Civil Code (CC) Section 220.20(j), require the
foreign-born child to possess an I-600 visa to be eligible for
adoption under the Intercountry Adoption Program.

Independent petitions may be filed for a child who has a visa
other than an I-600 visa. When a petition is filed, the
petitioners must provide adequate documentation to the
satisfaction of the agency that the child is a proper subject for
adoption and it must be possible for the agency to easily verify
that the information the petitioners present confirms that the
child is a proper subject for adoption. A proper subject for
adoption is a child who, at a minimum, is legally freed for
adoptive placement, is emotionally prepared and ready for
adoption, and can benefit from the adoption.

It is also the Department's policy in the Independent Adoption
Program that consents signed outside the United States meet the

requirements of CC Section 1183 regarding proof or acknowledgment of documents signed outside the United States. CC Section 1183 reads as follows:

"The proof or acknowledgment of an instrument may be made without the United States, before any of the following:

(a) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made.

(b) A consul, vice consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made.

(c) A judge of a court of record of the country where the proof or acknowledgment is made.

(d) Commissioners appointed by the Governor or Secretary of State for that purpose.

(e) A notary public.

If the proof or acknowledgment is made before a notary public, the signature of the notary public shall be proved or acknowledged (1) before a judge of a court of record of the country where the proof or acknowledgment is made, or (2) by any American diplomatic officer, consul general, consul, vice consul, or consular agent, or (3) by an apostille (certification) affixed to the instrument pursuant to the terms of The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents."

If there are any questions about the child's status or the validity of the signed consents, the agency must immediately file the report to the court as required by CC Section 224.42 citing the agency's concerns.

Agencies are not authorized to answer questions regarding the effect of an adoption in California on the visa status of a foreign-born child. All questions that relate to the immigration status of a citizen of another country must be referred to the nearest Immigration and Naturalization Service (INS) office.

Agencies should also be aware that there are many new countries currently emerging in Eastern Europe. Many questions may arise regarding the resident status of individuals from these new nations. The only entity in a position to provide up-to-date information on this subject is the United States Department of State. Agencies should also contact the nearest office of the INS if any questions arise regarding the immigration status of a citizen from one of these new nations. If you have any questions on this issue, please address them in writing to the Adoptions Policy Bureau.

LOREN D. SUTER
DEPUTY DIRECTOR

Adult and Family Services

cc: CWDA