

Department of State

§ 96.93

of accreditation or approval, and a debarment (whether temporary or permanent) by the Secretary are final actions subject to judicial review. Other actions by the Secretary are not final actions and are not subject to judicial review.

(c) In accordance with section 204(d) of the IAA (42 U.S.C. 14924(d)), an agency or person that has been suspended, cancelled, or temporarily or permanently debarred by the Secretary may petition the United States District Court for the District of Columbia, or the United States district court in the judicial district in which the person resides or the agency is located, pursuant to 5 U.S.C. 706, to set aside the action.

§ 96.89 [Reserved]

Subpart M—Dissemination and Reporting of Information by Accrediting Entities

§ 96.90 Scope.

The provisions in this subpart govern the dissemination and reporting of information on accredited agencies and approved persons by accrediting entities. Temporary accreditation is governed by the provisions of subpart N of this part and, as provided for in § 96.110, reports on temporarily accredited agencies must comply with this subpart.

§ 96.91 Dissemination of information to the public about accreditation and approval status.

(a) Once the Convention has entered into force for the United States, the accrediting entity must maintain and make available to the public on a quarterly basis the following information:

(1) The name, address, and contact information for each agency and person it has accredited or approved;

(2) The names of agencies and persons to which it has denied accreditation or approval that have not subsequently been accredited or approved;

(3) The names of agencies and persons that have been subject to withdrawal of temporary accreditation, suspension, cancellation, refusal to renew accreditation or approval, or debarment by the accrediting entity or the Secretary; and

(4) Other information specifically authorized in writing by the accredited agency or approved person to be disclosed to the public.

(b) Once the Convention has entered into force for the United States, each accrediting entity must make the following information available to individual members of the public upon specific request:

(1) Confirmation of whether or not a specific agency or person has a pending application for accreditation or approval, and, if so, the date of the application and whether it is under active consideration or whether a decision on the application has been deferred; and

(2) If an agency or person has been subject to a withdrawal of temporary accreditation, suspension, cancellation, refusal to renew accreditation or approval, or debarment, a brief statement of the reasons for the action.

§ 96.92 Dissemination of information to the public about complaints against accredited agencies and approved persons.

Once the Convention has entered into force for the United States, each accrediting entity must maintain a written record documenting each complaint received and the steps taken in response to it. This information may be disclosed to the public as follows:

(a) The accrediting entity must verify, upon inquiry from a member of the public, whether there have been any substantiated complaints against an accredited agency or approved person, and if so, provide information about the status and nature of any such complaints.

(b) The accrediting entity must have procedures for disclosing information about complaints that are substantiated.

§ 96.93 Reports to the Secretary about accredited agencies and approved persons and their activities.

(a) The accrediting entity must make annual reports to the Secretary on the information it collects from accredited agencies and approved persons pursuant to § 96.43. The accrediting entity must make semi-annual reports to the Secretary that summarize for the preceding six-month period the following information:

(1) The accreditation and approval status of applicants, accredited agencies, and approved persons;

(2) Any instances where it has denied accreditation or approval;

(3) Any adverse actions taken against an accredited agency or approved person and any withdrawals of temporary accreditation;

(4) All substantiated complaints against accredited agencies and approved persons and the impact of such complaints on their accreditation or approval status;

(5) The number, nature, and outcome of complaint investigations carried out by the accrediting entity as well as the shortest, longest, average, and median length of time expended to complete complaint investigations; and

(6) Any discernible patterns in complaints received about specific agencies or persons, as well as any discernible patterns of complaints in the aggregate.

(b) The accrediting entity must report to the Secretary within thirty days of the time it learns that an accredited agency or approved person:

(1) Has ceased to provide adoption services; or

(2) Has transferred its Convention cases and adoption records.

(c) In addition to the reporting requirements contained in § 96.72, an accrediting entity must immediately notify the Secretary in writing:

(1) When it accredits an agency or approves a person;

(2) When it renews the accreditation or approval of an agency or person; or

(3) When it takes an adverse action against an accredited agency or approved person that impacts its accreditation or approval status or withdraws an agency's temporary accreditation.

§ 96.94 [Reserved]

Subpart N—Procedures and Standards Relating to Temporary Accreditation

§ 96.95 Scope.

(a) The provisions in this subpart govern only temporary accreditation. The provisions in subpart F of this part cover full accreditation of agencies and approval of persons.

(b) Agencies that meet the eligibility requirements established in this subpart may apply for temporary accreditation that will run for a one-or two-year period following the Convention's entry into force for the United States. Persons may not be temporarily approved. Temporary accreditation is only available to agencies that apply by the transitional application deadline and who complete the temporary accreditation process by the deadline for initial accreditation or approval in accordance with § 96.19.

§ 96.96 Eligibility requirements for temporary accreditation.

(a) An accrediting entity may not temporarily accredit an agency unless the agency demonstrates to the satisfaction of the accrediting entity that:

(1) It has provided adoption services in fewer than 100 intercountry adoption cases in the calendar year preceding the year in which the transitional application deadline falls. For purposes of this subpart, the number of cases includes all intercountry adoption cases that were handled by, or under the responsibility of, the agency, regardless of whether they involved countries party to the Convention;

(2) It qualifies for nonprofit tax treatment under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or for nonprofit status under the law of any State;

(3) It is properly licensed under State law to provide adoption services in at least one State. It is, and for the last three years prior to the transitional application deadline has been, providing intercountry adoption services;

(4) It has the capacity to maintain and provide to the accrediting entity and the Secretary, within thirty days of request, all of the information relevant to the Secretary's reporting requirements under section 104 of the IAA (42 U.S.C. 14914); and

(5) It has not been involved in any improper conduct related to the provision of intercountry adoption or other services, as evidenced in part by the following:

(i) The agency has maintained its State license without suspension or cancellation for misconduct during the