

In addition to this IAA statutory requirement, the Department has included in the proposed regulation another basis for suspension or cancellation by the Department. The Department may suspend or cancel accreditation or approval when such action will further U.S. foreign policy or national security interests, protect the ability of U.S. citizens to adopt children under the Convention, or protect the interests of children. The Department believes that this additional basis for suspending or canceling a particular agency's or person's accreditation or approval is a natural corollary of the Department's foreign affairs authority and is consistent with the IAA because it will enable the Department in specific situations to meet two of the stated IAA goals, which are:

[T]o protect the rights of, and prevent abuses against, children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention, and to ensure that such adoptions are in the children's best interests; and

[T]o improve the ability of the Federal Government to assist United States citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (Pub. L. 106-279, 2(b)(2) and 2(b)(3)).

This authority could be used, for example, if the practices of a particular accredited agency were to cause a Convention country to undertake action that could adversely affect the ability of United States citizens generally to adopt children from the country in question.

To obtain relief from the Department's suspension or cancellation, an agency or person must demonstrate to the Secretary that the deficiencies or circumstances that led to the adverse action have been corrected or are no longer applicable. In the case of suspension, the Department may terminate the suspension. In the case of cancellation, the Department may give the agency or person permission to reapply to the accrediting entity for accreditation or approval.

The Department, at its discretion, may also temporarily or permanently debar an agency or person on the Department's own initiative, at the request of DHS, or at the request of an accrediting entity. The standard for debarment is drawn directly from section 204(c) of the IAA and requires that there be substantial evidence that the agency or person is out of compliance and that there has been a pattern of serious, willful, or grossly negligent failures to comply, or other aggravating circumstances indicating

that continued accreditation or approval would not be in the best interests of the children and families concerned.

In the case of temporary debarment, the Department's order, as required by the IAA, may not be for less than three years. The order must state the time frame for the temporary debarment and list the date on which the agency or person may petition the Department for withdrawal of the temporary debarment. If the Department withdraws the temporary debarment, the agency or person may then apply for accreditation or approval to an accrediting entity. In the case of permanent debarment, the agency or person is not permitted to petition the Department for withdrawal and may not apply for accreditation or approval again.

As provided in the IAA, a United States district court may review any challenged final adverse action of the Secretary in accordance with the APA, 5 U.S.C. 706.

13. Subpart M—Dissemination and Reporting of Information by Accrediting Entities

Subpart M requires the accrediting entity to make information about accredited agencies and approved persons publicly available. The provisions of subpart M on public disclosure of information will take effect only after the Convention enters into force for the United States. Specifically, the accrediting entity must disclose the name, address, and contact information for each accredited agency or approved person, and the names of agencies and persons denied accreditation or approval. It must also provide the names of those who have been subject to withdrawal of temporary accreditation, suspension, cancellation, refusal to renew, or debarment.

The accrediting entity must also make certain other information available to the public upon specific request. This includes confirming whether an agency or person has a pending application and the status of that application. It also includes indicating whether an agency or person has been subject to withdrawal of temporary accreditation, suspension, cancellation, refusal to renew, or debarment and providing a brief statement of the reasons for the action. Most important, the accrediting entity must make available a summary of the accreditation or approval study for each accredited agency or approved person in a format to be approved by the Department.

The accrediting entity must also maintain and disseminate certain information about complaints. In particular, when a complaint is filed,

the accrediting entity must maintain a written record of it and must verify certain information about the complaint upon request. The accrediting entity must have procedures for disclosing information about complaints that are substantiated and not substantiated.

The Department is placing these additional burdens on the accrediting entity in response to suggestions that such information should be made accessible so that parents can compare the performance of agencies and persons. The Department realizes that requiring the accrediting entity to perform this additional task will add to the costs of accreditation and approval and that these costs will ultimately be passed on to parents. There will be a substantial benefit, however, to parents in having available information that allows them to make informed decisions when selecting a service provider. The publication and dissemination of this information will also give agencies and persons another incentive to meet the standards set in subpart F.

The Department also intends to convene a working group that will include the accrediting entity(s) and other Federal government bodies, including DHS. The working group will meet on a regular basis to facilitate the exchange of information about the accreditation and approval process and to discuss how the agencies and persons are complying with these regulations.

14. Subpart N—Procedures and Standards Relating to Temporary Accreditation

The IAA permits the temporary accreditation of small agencies for a one- or two-year period starting on the date that the Convention enters into force for the United States. Agencies, but not persons, may apply to become temporarily accredited. The regulations in subpart N apply only to temporary accreditation.

To be eligible for temporary accreditation, an agency must show that it has provided adoption services in fewer than 100 intercountry adoption cases in the calendar year preceding the year in which the TAD falls (see subpart D for an explanation of the "transitional application deadline"). An agency may be eligible for a one- or two-year period of accreditation, depending upon the number of intercountry adoptions the agency has handled. An agency that has provided adoption services in 50-99 intercountry adoptions in the calendar year preceding the year in which the TAD falls may apply for a one-year period of temporary accreditation. An agency that has provided adoption services in fewer than 50 intercountry