

expires. It must also, under the oversight of the accrediting entity, transfer its pending Convention cases and adoption records. When the agency or person is unable to transfer such Convention cases or adoption records, the accrediting entity must, after consultation with the Secretary, take appropriate action to assist the agency or person in transferring its Convention cases and adoption records.

(d) The accrediting entity must immediately notify the Secretary in writing when it takes an adverse action that impacts the accreditation or approval status of an agency or person.

§ 96.78 Petitions to terminate adverse action by the accrediting entity.

(a) If the accrediting entity takes adverse action against an agency or person, the agency or person must petition the accrediting entity to terminate the adverse action, on the grounds that the deficiencies necessitating the adverse action have been corrected, before it can seek judicial review. The accrediting entity may terminate the adverse action only if the agency or person demonstrates to the satisfaction of the accrediting entity that the deficiencies that led to the adverse action have been corrected. The accrediting entity must notify an agency or person in writing of its decision on the petition to terminate the adverse action. If the accrediting entity does not terminate the adverse action after being petitioned to do so in accordance with this paragraph, the agency or person may seek judicial review of the adverse action.

(b) If the accrediting entity described in paragraph (a) of this section is no longer providing accreditation or approval services, the agency or person may petition any accrediting entity with jurisdiction over its application.

(c) If the accrediting entity cancels or refuses to renew an agency's or person's accreditation or approval, and does not terminate the adverse action pursuant to paragraph (a) of this section, the agency or person must reapply for accreditation or approval if it wishes to become accredited or approved again. Before doing so, the agency or person must request and obtain permission to make a new application from the accrediting entity that cancelled or refused to renew its accreditation or approval. The accrediting entity may grant such permission only if the agency or person demonstrates to the satisfaction of the accrediting entity that the specific deficiencies that led to the cancellation or refusal to renew have been corrected.

(d) If the accrediting entity grants the agency or person permission to reapply,

the agency or person may file an application with that accrediting entity in accordance with subpart D of this part.

§ 96.79 Administrative or judicial review of adverse action by the accrediting entity.

(a) There is no administrative review of an adverse action by an accrediting entity.

(b) Section 202(c)(3) of the IAA (Pub. L. 106–279, § 202(c)(3), 42 U.S.C. 14922(c)(3)) provides for judicial review of adverse actions by an accrediting entity. Adverse actions are only those actions listed in § 96.75. There is no judicial review of an accrediting entity's decision to deny accreditation or approval, including:

(1) A denial of an initial application;

(2) A denial of an application made after cancellation or refusal to renew by the accrediting entity; and

(3) A denial of an application made after cancellation or debarment by the Secretary.

(c) In accordance with section 202(c)(3) of the IAA (Pub. L. 106–279, § 202(c)(3), 42 U.S.C. 14922(c)(3)), an accredited agency or approved person that is the subject of an adverse action by an accrediting entity may petition the United States district court in the judicial district in which the agency is located or the person resides to set aside the adverse action imposed by the accrediting entity. The United States district court may review the adverse action in accordance with 5 U.S.C. 706. When an accredited agency or approved person petitions a United States district court to review the adverse action of an accrediting entity, the accrediting entity will be considered an agency as defined in 5 U.S.C. 701 for the purpose of judicial review of the adverse action.

§ 96.80 [Reserved]

Subpart L—Oversight of Accredited Agencies and Approved Persons by the Secretary

§ 96.81 Scope.

The provisions in this subpart establish the procedures governing adverse action by the Secretary against accredited agencies and approved persons. Temporary accreditation is governed by the provisions in subpart N of this part. Unless otherwise provided in subpart N of this part, the provisions in subpart L of this part do not apply to temporarily accredited agencies.

§ 96.82 The Secretary's response to actions by the accrediting entity.

(a) There is no administrative review by the Secretary of an accrediting entity's decision to deny accreditation

or approval, nor of any decision by an accrediting entity to take an adverse action.

(b) When informed by an accrediting entity that an agency has been accredited or a person has been approved, the Secretary will take appropriate steps to ensure that relevant information about the accredited agency or approved person is provided to the Permanent Bureau of the Hague Conference on Private International Law. When informed by an accrediting entity that it has taken an adverse action that impacts an agency's or person's accreditation or approval status, the Secretary will take appropriate steps to inform the Permanent Bureau of the Hague Conference on Private International Law.

§ 96.83 Suspension or cancellation of accreditation or approval by the Secretary.

(a) The Secretary must suspend or cancel the accreditation or approval granted by an accrediting entity when the Secretary finds that the agency or person is substantially out of compliance with the standards in subpart F of this part and that the accrediting entity has failed or refused, after consultation with the Secretary, to take the action directed by the Secretary.

(b) The Secretary may suspend or cancel the accreditation or approval granted by an accrediting entity if the Secretary finds that such action:

(1) Will further U.S. foreign policy or national security interests;

(2) Will protect the ability of U.S. citizens to adopt children under the Convention; or

(3) Will protect the interests of children.

(c) If the Secretary suspends or cancels the accreditation or approval of an agency or person, the Secretary will take appropriate steps to notify both the accrediting entity and the Permanent Bureau of the Hague Conference on Private International Law.

§ 96.84 Reinstatement of accreditation or approval after suspension or cancellation by the Secretary.

An agency or person may petition the Secretary for relief from the Secretary's suspension or cancellation of its accreditation or approval. If the Secretary is satisfied that the deficiencies or circumstances that led to the suspension or cancellation have been corrected or are no longer applicable, the Secretary shall, in the case of a suspension, terminate the suspension or, in the case of a cancellation, notify the agency or person that it may reapply for accreditation or