§ 96.10 Suspension or cancellation of the designation of an accrediting entity by the Secretary.

(a) The Secretary will suspend or cancel the designation of an accrediting entity if the Secretary concludes that it is substantially out of compliance with the Convention, the IAA, the regulations implementing the IAA, other applicable laws, or the agreement with the Secretary. Complaints regarding the performance of the accrediting entity may be submitted to the Department of State, Bureau of Consular Affairs. The Secretary will consider complaints in determining whether an accrediting entity’s designation should be suspended or canceled.

(b) The Secretary will notify an accrediting entity in writing of any deficiencies in the accrediting entity’s performance that could lead to the suspension or cancellation of its designation, and will provide the accrediting entity with an opportunity to demonstrate that suspension or cancellation is unwarranted, in accordance with procedures established in the agreement entered into pursuant to § 96.9.

(c) An accrediting entity may be considered substantially out of compliance under circumstances that include, but are not limited to:

(1) Failing to act in a timely manner when presented with evidence that an accredited agency or approved person is substantially out of compliance with the standards in subpart F of this part or a temporarily accredited agency is substantially out of compliance with the standards in § 96.104;

(2) Accr...
accreditation, or approval under this part establishes only that the accrediting entity has concluded, in accordance with the standards and procedures of this part, that the agency or person conducts adoption services in substantial compliance with the applicable standards set forth in this part; it is not a guarantee that in any specific case the accrediting agency, temporarily accredited agency, or approved person is providing adoption services consistently with the Convention, the IAA, the regulations implementing the IAA, or any other applicable law, whether Federal, State, or foreign. Neither the Secretary nor any accrediting entity shall be responsible for any acts of an accredited agency, temporarily accredited agency, approved person, exempted provider, supervised provider, or other entity providing services in connection with a Convention adoption.

§ 96.13 Circumstances in which accreditation, approval, or supervision is not required.

(a) Home studies and child background studies. Home studies and child background studies, when performed by exempted providers, may be performed without accreditation, temporary accreditation, approval, or supervision; provided, however, that an exempted provider’s home study must be approved by an accredited agency or temporarily accredited agency in accordance with §96.47(c), and an exempted provider’s child background study must be approved by an accredited agency or temporarily accredited agency in accordance with §96.53(b).

(b) Child welfare services. An agency or person does not need to be accredited, temporarily accredited, approved, or operate as a supervised provider if it is providing only child welfare services, and not providing any adoption services, in connection with a Convention adoption. If the agency or person provides both a legal service and any adoption service in the United States in a Convention adoption case, it must be accredited, temporarily accredited, or approved or operate as a supervised provider unless the only adoption service provided is preparation of a home study and/or a child background study.

(c) Legal services. An agency or person does not need to be accredited, temporarily accredited, approved, or to operate as a supervised provider if it is providing only legal services, and not providing any adoption services, in connection with a Convention adoption. If the agency or person provides both a legal service and any adoption service in the United States in a Convention adoption case, it must be accredited, temporarily accredited, or approved or operate as a supervised provider unless the only adoption service provided is preparation of a home study and/or a child background study. Nothing in this part shall be construed:

(1) To permit an attorney to provide both legal services and adoption services in an adoption case where doing so is prohibited by State law; or

(2) To require any attorney who is providing any more adoption services as part of his or her employment by a public domestic authority to be accredited or approved or operate as a supervised provider.

(d) Prospective adoptive parent(s) acting on own behalf. Prospective adoptive parent(s) may act on their own behalf without being accredited, temporarily accredited, or approved unless so acting is prohibited by State law or the law of the Convention country. In the case of a child immigrating to the United States in connection with his or her adoption, such conduct must be permissible under the laws of the State in which the prospective adoptive parent(s) reside and the laws of the Convention country from which the parent(s) seek to adopt. In the case of a child emigrating from the United States in connection with his or her adoption, such conduct must be permissible under the laws of the State where the child resides and the laws of the Convention country in which the parent(s) reside.