

tions requiring the application of clinical skills and judgment are performed only by professionals with appropriate qualifications and credentials.

(D) Records, reports, and information matters

The agency is capable of—

(i) maintaining such records and making such reports as may be required by the Secretary, the United States central authority, and the accrediting entity that accredits the agency;

(ii) cooperating with reviews, inspections, and audits;

(iii) safeguarding sensitive individual information; and

(iv) complying with other requirements concerning information management necessary to ensure compliance with the Convention, this chapter, and any other applicable law.

(E) Liability insurance

The agency agrees to have in force adequate liability insurance for professional negligence and any other insurance that the Secretary considers appropriate.

(F) Compliance with applicable rules

The agency has established adequate measures to comply (and to ensure compliance of their agents and clients) with the Convention, this chapter, and any other applicable law.

(G) Nonprofit organization with state license to provide adoption services

The agency is a private nonprofit organization licensed to provide adoption services in at least one State.

(2) Approval

The standards prescribed under subsection (a) of this section shall include the requirement that a person shall not be approved under this subchapter unless the person is a private for-profit entity that meets the requirements of subparagraphs (A) through (F) of paragraph (1) of this subsection.

(3) Renewal of accreditation or approval

The standards prescribed under subsection (a) of this section shall provide that the accreditation of an agency or approval of a person under this subchapter shall be for a period of not less than 3 years and not more than 5 years, and may be renewed on a showing that the agency or person meets the requirements applicable to original accreditation or approval under this subchapter.

(c) Temporary registration of community based agencies

(1) One-year registration period for medium community based agencies

For a 1-year period after the entry into force of the Convention and notwithstanding subsection (b) of this section, the Secretary may provide, in regulations issued pursuant to subsection (a) of this section, that an agency may register with the Secretary and be accredited to provide adoption services in the United

States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 100 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(2) Two-year registration period for small community-based agencies

For a 2-year period after the entry into force of the Convention and notwithstanding subsection (b) of this section, the Secretary may provide, in regulations issued pursuant to subsection (a) of this section, that an agency may register with the Secretary and be accredited to provide adoption services in the United States in cases subject to the Convention during such period if the agency has provided adoption services in fewer than 50 intercountry adoptions in the preceding calendar year and meets the criteria described in paragraph (3).

(3) Criteria for registration

Agencies registered under this subsection shall meet the following criteria:

(A) The agency is licensed in the State in which it is located and is a nonprofit agency.

(B) The agency has been providing adoption services in connection with intercountry adoptions for at least 3 years.

(C) The agency has demonstrated that it will be able to provide the United States Government with all information related to the elements described in section 14914(b) of this title and provides such information.

(D) The agency has initiated the process of becoming accredited under the provisions of this chapter and is actively taking steps to become an accredited agency.

(E) The agency has not been found to be involved in any improper conduct relating to intercountry adoptions.

(Pub. L. 106-279, title II, §203, Oct. 6, 2000, 114 Stat. 832.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original “this title”, meaning title II of Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

This chapter, referred to in subsecs. (b)(1)(B), (D)(iv), (F) and (c)(3)(D) was in the original “this Act”, meaning Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§ 14924. Secretarial oversight of accreditation and approval

(a) Oversight of accrediting entities

The Secretary shall—

(1) monitor the performance by each accrediting entity of its duties under section 14922 of

this title and its compliance with the requirements of the Convention, this chapter, other applicable laws, and implementing regulations under this chapter; and

(2) suspend or cancel the designation of an accrediting entity found to be substantially out of compliance with the Convention, this chapter, other applicable laws, or implementing regulations under this chapter.

(b) Suspension or cancellation of accreditation or approval

(1) Secretary's authority

The Secretary shall suspend or cancel the accreditation or approval granted by an accrediting entity to an agency or person pursuant to section 14922 of this title when the Secretary finds that—

(A) the agency or person is substantially out of compliance with applicable requirements; and

(B) the accrediting entity has failed or refused, after consultation with the Secretary, to take appropriate enforcement action.

(2) Correction of deficiency

At any time when the Secretary is satisfied that the deficiencies on the basis of which an adverse action is taken under paragraph (1) have been corrected, the Secretary shall—

(A) notify the accrediting entity that the deficiencies have been corrected; and

(B)(i) in the case of a suspension, terminate the suspension; or

(ii) in the case of a cancellation, notify the agency or person that the agency or person may re-apply to the accrediting entity for accreditation or approval.

(c) Debarment

(1) Secretary's authority

On the initiative of the Secretary, or on request of an accrediting entity, the Secretary may temporarily or permanently debar an agency from accreditation or a person from approval under this subchapter, but only if—

(A) there is substantial evidence that the agency or person is out of compliance with applicable requirements; and

(B) 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.

(2) Period of debarment

The Secretary's debarment order shall state whether the debarment is temporary or permanent. If the debarment is temporary, the Secretary shall specify a date, not earlier than 3 years after the date of the order, on or after which the agency or person may apply to the Secretary for withdrawal of the debarment.

(3) Effect of debarment

An accrediting entity may take into account the circumstances of the debarment of an agency or person that has been debarred pursuant to this subsection in considering any subsequent application of the agency or person, or of any other entity in which the agen-

cy or person has an ownership or control interest, for accreditation or approval under this subchapter.

(d) Judicial review

A person (other than a prospective adoptive parent), an agency, or an accrediting entity who is the subject of a final action of suspension, cancellation, or debarment by the Secretary under this subchapter 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 or accrediting entity is located to set aside the action. The court shall review the action in accordance with section 706 of title 5.

(e) Failure to ensure a full and complete home study

(1) In general

Willful, grossly negligent, or repeated failure to ensure the completion and transmission of a background report (home study) that fully complies with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute substantial noncompliance with applicable requirements.

(2) Regulations

Regulations promulgated under section 14923 of this title shall provide for—

(A) frequent and careful monitoring of compliance by agencies and approved persons with the requirements of section 14923(b)(A)(ii)¹ of this title; and

(B) consultation between the Secretary and the accrediting entity where an agency or person has engaged in substantial noncompliance with the requirements of section 14923(b)(A)(ii)¹ of this title, unless the accrediting entity has taken appropriate corrective action and the noncompliance has not recurred.

(3) Repeated failures to comply

Repeated serious, willful, or grossly negligent failures to comply with the requirements of section 14923(b)(1)(A)(ii) of this title by an agency or person after consultation between Secretary and the accrediting entity with respect to previous noncompliance by such agency or person shall constitute a pattern of serious, willful, or grossly negligent failures to comply under subsection (c)(1)(B) of this section.

(4) Failure to comply with certain requirements

A failure to comply with the requirements of section 14923(b)(1)(A)(ii) of this title shall constitute a serious failure to comply under subsection (c)(1)(B) of this section unless it is shown by clear and convincing evidence that such noncompliance had neither the purpose nor the effect of determining the outcome of a decision or proceeding by a court or other competent authority in the United States or the child's country of origin.

(Pub. L. 106-279, title II, §204, Oct. 6, 2000, 114 Stat. 835.)

¹ So in original. Probably should be section "14923(b)(1)(A)(ii)".

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 825, known as the Intercountry Adoption Act of 2000, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

This subchapter, referred to in subsecs. (c)(1), (3) and (d), was in the original “this title”, meaning title II of Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 830, which is classified principally to this subchapter. For complete classification of title II to the Code, see Tables.

EFFECTIVE DATE

Section effective Oct. 6, 2000, with transition rule, see section 505(a)(1), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

SUBCHAPTER III—RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES

§ 14931. Adoptions of children immigrating to the United States**(a) Legal effect of certificates issued by the Secretary of State****(1) Issuance of certificates by the Secretary of State**

The Secretary of State shall, with respect to each Convention adoption, issue a certificate to the adoptive citizen parent domiciled in the United States that the adoption has been granted or, in the case of a prospective adoptive citizen parent, that legal custody of the child has been granted to the citizen parent for purposes of emigration and adoption, pursuant to the Convention and this chapter, if the Secretary of State—

(A) receives appropriate notification from the central authority of such child’s country of origin; and

(B) has verified that the requirements of the Convention and this chapter have been met with respect to the adoption.

(2) Legal effect of certificates

If appended to an original adoption decree, the certificate described in paragraph (1) shall be treated by Federal and State agencies, courts, and other public and private persons and entities as conclusive evidence of the facts certified therein and shall constitute the certification required by section 1154(d)(2) of title 8.

(b) Legal effect of Convention adoption finalized in another Convention country

A final adoption in another Convention country, certified by the Secretary of State pursuant to subsection (a) of this section or section 14932(c) of this title, shall be recognized as a final valid adoption for purposes of all Federal, State, and local laws of the United States.

(c) Condition on finalization of Convention adoption by State court

In the case of a child who has entered the United States from another Convention country for the purpose of adoption, an order declaring the adoption final shall not be entered unless the Secretary of State has issued the certificate

provided for in subsection (a) of this section with respect to the adoption.

(Pub. L. 106-279, title III, §301, Oct. 6, 2000, 114 Stat. 837.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this Act”, meaning Pub. L. 106-279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of this title and Tables.

EFFECTIVE DATE

Section effective upon entry into force for the United States of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, pursuant to Article 46(2)(a) of the Convention, with transition rule, see section 505(a)(2), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of this title.

§ 14932. Adoptions of children emigrating from the United States**(a) Duties of accredited agency or approved person**

In the case of a Convention adoption involving the emigration of a child residing in the United States to a foreign country, the accredited agency or approved person providing adoption services, or the prospective adoptive parent or parents acting on their own behalf (if permitted by the laws of such other Convention country in which they reside and the laws of the State in which the child resides), shall do the following:

(1) Ensure that, in accordance with the Convention—

(A) a background study on the child is completed;

(B) the accredited agency or approved person—

(i) has made reasonable efforts to actively recruit and make a diligent search for prospective adoptive parents to adopt the child in the United States; and

(ii) despite such efforts, has not been able to place the child for adoption in the United States in a timely manner; and

(C) a determination is made that placement with the prospective adoptive parent or parents is in the best interests of the child.

(2) Furnish to the State court with jurisdiction over the case—

(A) documentation of the matters described in paragraph (1);

(B) a background report (home study) on the prospective adoptive parent or parents (including a criminal background check) prepared in accordance with the laws of the receiving country; and

(C) a declaration by the central authority (or other competent authority) of such other Convention country—

(i) that the child will be permitted to enter and reside permanently, or on the same basis as the adopting parent, in the receiving country; and

(ii) that the central authority (or other competent authority) of such other Con-