

## HAGUE ACCREDITATION AND APPROVAL STANDARDS

**Introduction:** The Department of State (the Department) issued the final rule on the accreditation and approval of agencies and persons in accordance with the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) and the Intercountry Adoption Act of 2000 (the IAA) on February 15, 2006. The final rule establishes the accreditation and approval standards for agencies and persons; establishes requirements applicable to accrediting entities; and establishes a framework for the Department's oversight of accrediting entities, agencies, and persons. Subpart F provides the standards for accrediting agencies and approving persons. The following standards are a formatted version of the Standards published by the Department.

## LICENSING AND CORPORATE GOVERNANCE

### Section 96.30 State Licensing

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- 96.30 (a)**<sup>M</sup> The agency or person is properly licensed or otherwise authorized by State law to provide adoption services in at least one State.
- 96.30 (b)**<sup>M</sup> The agency or person follows applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services.
- 96.30 (c)**<sup>M</sup> If it provides adoption services in a State in which it is not itself licensed or authorized to provide such services, the agency or person does so only:
- (1) through agencies or persons that are licensed or authorized by State law to provide adoption services in that State and that are exempted providers or acting as supervised providers; or
  - (2) through public domestic authorities.
- 96.30 (d)**<sup>M</sup> In the case of a person, the individual or for-profit entity is not prohibited by State law from providing adoption services in any State where it is providing adoption services, and does not provide adoption services in Convention countries that prohibit individuals or for-profit entities from providing adoption services.
- NA** The Adoption Service Provider is an agency.

### Section 96.31 Corporate Structure

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- 96.31 (a)**<sup>M</sup> The agency 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 laws of any State.
- NA** The Adoption Service Provider is a person.
- 96.31 (b)**<sup>M</sup> The person is an individual or is a for-profit entity organized as a corporation, company, association, firm, partnership, society, or joint stock company, or other legal entity under the laws of any State.
- NA** The Adoption Service Provider is an agency.

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- 96.32 (a) <sup>C</sup>** The agency or person has (or, in the case of an individual, is) a chief executive officer or equivalent official who is qualified by education, adoption service experience, and management credentials to ensure effective use of resources and coordinated delivery of the services provided by the agency or person, and has authority and responsibility for management and oversight of the staff and any supervised providers in carrying out the adoption-related functions of the organization.
- 96.32 (b) <sup>C</sup>** The agency or person has a board of directors or a similar governing body that establishes and approves its mission, policies, budget, and programs; provides leadership to secure the resources needed to support its programs; includes one or more individuals with experience in adoption, including but not limited to, adoptees, birth parents, prospective adoptive parent(s), and adoptive parents; and appoints and oversees the performance of its chief executive officer or equivalent official. This standard does not apply where the person is an individual practitioner.
- NA** The Adoption Service Provider is an individual practitioner.
- 96.32 (c) <sup>F</sup>** The agency or person keeps permanent records of the meetings and deliberations of its governing body and of its major decisions affecting the delivery of adoption services.
- 96.32 (d) <sup>C</sup>** The agency or person has in place procedures and standards, pursuant to Sections 96.45 and 96.46, for the selection, monitoring, and oversight of supervised providers.
- 96.32 (e) <sup>C</sup>** The agency or person discloses to the accrediting entity the following information:
- (1) any other names by which the agency or person is or has been known, under either its current or any former form of organization, and the addresses and phone numbers used when such names were used;
  - (2) the name, address, and phone number of each current director, manager, and employee of the agency or person, and, for any such individual who previously served as a director, manager, or employee of another provider of adoption services, the name, address, and phone number of such other provider; and
  - (3) the name, address, and phone number of any entity it uses or intends to use as a supervised provider.

## FINANCIAL AND RISK MANAGEMENT

### Section 96.33 Budget, Audit, Insurance, and Risk Assessment Requirements

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- 96.33 (a)**<sup>C</sup> The agency or person operates under a budget approved by its governing body, if applicable, for management of its funds. The budget discloses all remuneration (including perquisites) paid to the agency's or person's board of directors, managers, employees, and supervised providers.
- 96.33 (b)**<sup>C</sup> The agency's or person's finances are subject to annual internal review and oversight and are subject to independent audits every four years. The agency or person submits copies of internal financial review reports for inspection by the accrediting entity each year.
- 96.33 (c)**<sup>C</sup> The agency or person submits copies of each audit, as well as any accompanying management letter or qualified opinion letter, for inspection by the accrediting entity.
- 96.33 (d)**<sup>C</sup> The agency or person meets the financial reporting requirements of Federal and State laws and regulations.
- 96.33 (e)**<sup>C</sup> The agency's or person's balance sheets show that it operates on a sound financial basis and maintains on average sufficient cash reserves, assets, or other financial resources to meet its operating expenses for two months, taking into account its projected volume of cases and its size, scope, and financial commitments. The agency or person has a plan to transfer its Convention cases if it ceases to provide or is no longer permitted to provide adoption services in Convention cases. The plan includes provisions for an organized closure and reimbursement to clients of funds paid for services not yet rendered.
- 96.33 (f)**<sup>C</sup> If it accepts charitable donations, the agency or person has safeguards in place to ensure that such donations do not influence child placement decisions in any way.
- 96.33 (g)**<sup>F</sup> The agency or person assesses the risks it assumes, including by reviewing information on the availability of insurance coverage for Convention-related activities. The agency or person uses the assessment to meet the requirements in paragraph (h) of this section and as the basis for determining the type and amount of professional, general, directors' and officers', errors and omissions, and other liability insurance to carry.
- 96.33 (h)**<sup>F</sup> The agency or person maintains professional liability insurance in amounts reasonably related to its exposure to risk, but in no case in an amount less than \$1,000,000 in the aggregate.
- 96.33 (i)**<sup>F</sup> The agency's or person's chief executive officer, chief financial officer, and other officers or employees with direct responsibility for financial transactions or financial management of the agency or person are bonded.

## Section 96.34      Compensation

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- 96.34 (a)**<sup>M</sup>      The agency or person does not compensate any individual who provides intercountry adoption services with an incentive fee or contingent fee for each child located or placed for adoption.
- 96.34 (b)**<sup>M</sup>      The agency or person compensates its directors, officers, employees, and supervised providers who provide intercountry adoption services only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis rather than a contingent fee basis.
- 96.34 (c)**<sup>M</sup>      The agency or person does not make any payments, promise payment, or give other consideration to any individual directly or indirectly involved in provision of adoption services in a particular case, except for salaries or fees for services actually rendered and reimbursement for costs incurred. This does not prohibit an agency or person from providing in-kind or other donations not intended to influence or affect a particular adoption.
- 96.34 (d)**<sup>F</sup>      The fees, wages, or salaries paid to the directors, officers, employees, and supervised providers of the agency or person are not unreasonably high in relation to the services actually rendered, taking into account the country in which the adoption services are provided and norms for compensation within the intercountry adoption community in that country, to the extent that such norms are known to the accrediting entity; the location, number, and qualifications of staff; workload requirements; budget; and size of the agency or person.
- 96.34 (e)**<sup>F</sup>      Any other compensation paid to the agency's or person's directors or members of its governing body is not unreasonably high in relation to the services rendered, taking into account the same factors listed in paragraph (d) of this section and its for-profit or nonprofit status.
- NA**      The Adoption Service Provider is an individual practitioner.
- 96.34 (f)**<sup>F</sup>      The agency or person identifies all vendors to whom clients are referred for non-adoption services and discloses to the accrediting entity any corporate or financial arrangements and any family relationships with such vendors.

## ETHICAL PRACTICES AND RESPONSIBILITIES

### Section 96.35      **Suitability of Agencies and Persons to Provide Adoption Services Consistent with the Convention**

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- 96.35 (a)**<sup>M</sup>      The agency or person provides adoption services ethically and in accordance with the Convention's principles of:
- (1)      ensuring that intercountry adoptions take place in the best interests of children; and
  - (2)      preventing the abduction, exploitation, sale, or trafficking of children.
- 96.35 (b)**<sup>C</sup>      In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person discloses to the accrediting entity the following information related to the agency or person, under its current or any former name:
- (1)      any instances in which the agency or person has lost the right to provide adoption services in any State or country, including the basis for such action(s);
  - (2)      any instances in which the agency or person was debarred or otherwise denied the authority to provide adoption services in any State or country, including the basis and disposition of such action(s);
  - (3)      any licensing suspensions for cause or other negative sanctions by oversight bodies against the agency or person, including the basis and disposition of such action(s);
  - (4)      for the prior ten-year period, any disciplinary action(s) against the agency or person by a licensing or accrediting body, including the basis and disposition of such action(s);
  - (5)      for the prior ten-year period, any written complaint(s) related to the provision of adoption-related services, including the basis and disposition of such complaints, against the agency or person filed with any State or Federal or foreign regulatory body and of which the agency or person was notified;
  - (6)      for the prior ten-year period, any known past or pending investigation(s) (by Federal authorities or by public domestic authorities), criminal charge(s), child abuse charge(s), or lawsuit(s) against the agency or person, related to the provision of child welfare or adoption-related services, and the basis and disposition of such action(s).
  - (7)      any instances where the agency or person has been found guilty of any crime under Federal, State, or foreign law or has been found to have committed any civil or administrative violation involving financial irregularities under Federal, State, or foreign law;
  - (8)      for the prior five-year period, any instances where the agency or person has filed for bankruptcy; and
  - (9)      descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that have been or are currently carried out by the agency or person, affiliate organizations, or by any

organization in which the agency or person has an ownership or controlling interest.

**96.35 (c) <sup>c</sup>** In order to permit the accrediting entity to evaluate the suitability of an agency or person for accreditation or approval, the agency or person (for its current or any former names) discloses to the accrediting entity the following information about its individual directors, officers, and employees:

- (1) for the prior ten-year period, any conduct by any such individual related to the provision of adoption-related services that was subject to external disciplinary proceeding(s);
- (2) any convictions or current investigations of any such individual who is in a senior management position for acts involving financial irregularities;
- (3) the results of a State criminal background check and a child abuse clearance for any such individual in the United States in a senior management position or who works directly with parent(s) and/or children (unless such checks have been included in the State licensing process);
- (4) a completed FBI Form FD-258 for each such individual in the United States in a senior management position or who works directly with parent(s) and/or children, which the agency or person must keep on file in case future allegations warrant submission of the form for a Federal criminal background check of any such individual; and
- (5) descriptions of any businesses or activities that are inconsistent with the principles of the Convention and that are known to have been or are currently carried out by current individual directors, officers, or employees of the agency or person.

**96.35 (d) <sup>c</sup>** In order to permit the accrediting entity to evaluate the suitability of a person who is an individual practitioner for approval, the individual:

- (1) provides the results of a State criminal background check and a child abuse clearance to the accrediting entity;
- (2) completes and retains a FBI Form FD-258 on file in case future allegations warrant submission of the form for a Federal criminal background check;
- (3) if a lawyer, for every jurisdiction in which he or she has ever been admitted to the Bar, provides a certificate of good standing or an explanation of why he or she is not in good standing, accompanied by any relevant documentation and immediately reports to the accrediting entity any disciplinary action considered by a State bar association, regardless of whether the action relates to intercountry adoption; and
- (4) if a social worker, for every jurisdiction in which he or she has been licensed, provides a certificate of good standing or an explanation of why he or she is not in good standing, accompanied by any relevant documentation.

**NA** The Adoption Service Provider is an agency or a for-profit organization.

- 96.35 (e)<sup>c</sup>** In order to permit the accrediting entity to monitor the suitability of an agency or person, the agency or person must disclose any changes in the information required by Section 96.35 within thirty business days of learning of the change.

**Section 96.36 Prohibition on Child Buying**

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- 96.36 (a)<sup>M</sup>** The agency or person prohibits its employees and agents from giving money or other consideration, directly or indirectly, to a child's parent(s), other individual(s), or an entity as payment for the child or as an inducement to release the child. If permitted or required by the child's country of origin, an agency or person may remit reasonable payments for activities related to the adoption proceedings, pre-birth and birth medical costs, the care of the child, the care of the birth mother while pregnant and immediately following birth of the child, or the provision of child welfare and child protection services generally. Permitted or required contributions shall not be remitted as payment for the child or as an inducement to release the child.
- 96.36 (b)<sup>M</sup>** The agency or person has written policies and procedures in place reflecting the prohibitions in paragraph (a) of this section and reinforces them in its employee training programs.

## PROFESSIONAL QUALIFICATIONS AND TRAINING FOR EMPLOYEES

### Section 96.37 Education and Experience Requirements for Social Service Personnel

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- 96.37 (a) <sup>c</sup>** The agency or person only uses employees with appropriate qualifications and credentials to perform, in connection with a Convention adoption, adoption-related social service functions that require the application of clinical skills and judgment (home studies, child background studies, counseling, parent preparation, post-placement, and other similar services).
- 96.37 (b) <sup>c</sup>** The agency's or person's employees meet any State licensing or regulatory requirements for the services they are providing.
- 96.37 (c) <sup>c</sup>** The agency's or person's executive director, the supervisor overseeing a case, or the social service employee providing adoption-related social services that require the application of clinical skills and judgment (home studies, child background studies, counseling, parent preparation, post-placement, and other similar services) has experience in the professional delivery of intercountry adoption services.
- 96.37 (d) <sup>c</sup>** The agency's or person's social work supervisors have prior experience in family and children's services, adoption, or intercountry adoption and either:
- (1) a master's degree from an accredited program of social work;
  - (2) a master's degree (or doctorate) in a related human service field, including, but not limited to, psychology, psychiatry, psychiatric nursing, counseling, rehabilitation counseling, or pastoral counseling; or
  - (3) in the case of a social work supervisor who is or was an incumbent at the time the Convention enters into force for the United States, the supervisor has significant skills and experience in intercountry adoption and has regular access for consultation purposes to an individual with the qualifications listed in paragraph (d)(1) or paragraph (d)(2) of this section.
- 96.37 (e) <sup>c</sup>** The agency's or person's non-supervisory employees providing adoption-related social services that require the application of clinical skills and judgment other than home studies or child background studies have either:
- (1) a master's degree from an accredited program of social work or in another human service field; or
  - (2) a bachelor's degree from an accredited program of social work; or a combination of a bachelor's degree in any field and prior experience in family and children's services, adoption, or intercountry adoption; and
  - (3) are supervised by an employee of the agency or person who meets the requirements for supervisors in paragraph (d) of this section.
- 96.37 (f) <sup>c</sup>** The agency's or person's employees who conduct home studies:

- (1) are authorized or licensed to complete a home study under the laws of the States in which they practice;
- (2) meet the INA requirements for home study preparers in 8 CFR 204.3(b); and
- (3) are supervised by an employee of the agency or person who meets the requirements in paragraph (d) of this section.

**NA** The agency or person or its supervised providers do not provide any services in incoming cases.

**96.37 (g) <sup>c</sup>** The agency's or person's employees who prepare child background studies:

- (1) are authorized or licensed to complete a child background study under the laws of the States in which they practice; and
- (2) are supervised by an employee of the agency or person who meets the requirements in paragraph (d) of this section.

**NA** The agency or person does not provide any services in outgoing cases.

## **Section 96.38      Training Requirements for Social Service Personnel**

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**96.38 (a) <sup>c</sup>** The agency or person provides newly hired employees who have adoption-related responsibilities involving the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post-placement and other similar services) with a comprehensive orientation to intercountry adoption that includes training on:

- (1) the requirements of the Convention, the IAA, the regulations implementing the IAA, and other applicable Federal regulations;
- (2) the INA regulations applicable to the immigration of children adopted from a Convention country;
- (3) the adoption laws of any Convention country where the agency or person provides adoption services;
- (4) relevant State laws;
- (5) ethical considerations in intercountry adoption and prohibitions on child-buying;
- (6) the agency's or person's goals, ethical and professional guidelines, organizational lines of accountability, policies, and procedures; and
- (7) the cultural diversity of the population(s) served by the agency or person.

**96.38 (b) <sup>f</sup>** In addition to the orientation training required under paragraph (a) of this section, the agency or person provides initial training to newly hired or current employees whose responsibilities include providing adoption-related social services that involve the application of clinical skills and judgment (home studies, child background

studies, counseling services, parent preparation, post-placement and other similar services) that addresses:

- (1) the factors in the countries of origin that lead to children needing adoptive families;
- (2) feelings of separation, grief, and loss experienced by the child with respect to the family of origin;
- (3) attachment and post-traumatic stress disorders;
- (4) psychological issues facing children who have experienced abuse or neglect and/or whose parents' rights have been terminated because of abuse or neglect;
- (5) the impact of institutionalization on child development;
- (6) outcomes for children placed for adoption internationally and the benefits of permanent family placements over other forms of government care;
- (7) the most frequent medical and psychological problems experienced by children from the countries of origin served by the agency or person;
- (8) the process of developing emotional ties to an adoptive family;
- (9) acculturation and assimilation issues, including those arising from factors such as race, ethnicity, religion, and culture and the impact of having been adopted internationally; and
- (10) child, adolescent, and adult development as affected by adoption.

**96.38 (c)**<sup>F</sup> The agency or person ensures that employees who provide adoption-related social services that involve the application of clinical skills and judgment (home studies, child background studies, counseling services, parent preparation, post-placement and other similar services) also receive, in addition to the orientation and initial training described in paragraphs (a) and (b) of this section, no less than thirty hours of training every two years, or more if required by State law, on current and emerging adoption practice issues through participation in seminars, conferences, documented distance learning courses, and other similar programs. Continuing education hours required under State law may count toward the thirty hours of training as long as the training is related to current and emerging adoption practice issues.

**96.38 (d)**<sup>F</sup> The agency or person exempts newly hired and current employees from elements of the orientation and initial training required in paragraphs (a) and (b) of this section only where the employee has demonstrated experience with intercountry adoption and knowledge of the Convention and the IAA.

## INFORMATION DISCLOSURE, FEE PRACTICES, AND QUALITY CONTROL POLICIES AND PRACTICES

### Section 96.39      Information Disclosure and Quality Control Practices

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- 96.39 (a)**<sup>C</sup>      The agency or person fully discloses in writing to the general public upon request and to prospective client(s) upon initial contact:
- (1)      its adoption service policies and practices, including general eligibility criteria and fees;
  - (2)      the supervised providers with whom the prospective client(s) can expect to work in the United States and in the child's country of origin and the usual costs associated with their services; and
  - (3)      a sample written adoption services contract substantially like the one that the prospective client(s) will be expected to sign should they proceed.
- 96.39 (b)**<sup>F</sup>      The agency or person discloses to client(s) and prospective client(s) that the following information is available upon request and makes such information available when requested:
- (1)      the number of its adoption placements per year for the prior three calendar years, and the number and percentage of those placements that remain intact, are disrupted, or have been dissolved as of the time the information is provided;
  - (2)      the number of parents who apply to adopt on a yearly basis, based on data for the prior three calendar years; and
  - (3)      the number of children eligible for adoption and awaiting an adoptive placement referral via the agency or person.
- 96.39 (c)**<sup>F</sup>      The agency or person does not give preferential treatment to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors with respect to the placement of children for adoption and has a written policy to this effect.
- 96.39 (d)**<sup>C</sup>      The agency or person requires a client to sign a waiver of liability as part of the adoption service contract only where that waiver complies with applicable State law. Any waiver required is limited and specific, based on risks that have been discussed and explained to the client in the adoption services contract.
- 96.39 (e)**<sup>C</sup>      The agency or person cooperates with reviews, inspections, and audits by the accrediting entity or the Secretary.
- 96.39 (f)**<sup>C</sup>      The agency or person uses the internet in the placement of individual children eligible for adoption only where:
- (1)      such use is not prohibited by applicable State or Federal law or by the laws of the child's country of origin;

- (2) such use is subject to controls to avoid misuse and links to any sites that reflect practices that involve the sale, abduction, exploitation, or trafficking of children;
- (3) such use, if it includes photographs, is designed to identify children either who are currently waiting for adoption or who have already been adopted or placed for adoption (and who are clearly so identified); and
- (4) such use does not serve as a substitute for the direct provision of adoption services, including services to the child, the prospective adoptive parent(s), and/or the birth parent(s).

## **Section 96.40      Fee Policies and Procedures**

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**96.40 (a) <sup>c</sup>** The agency or person provides to all applicants, prior to application, a written schedule of expected total fees and estimated expenses and an explanation of the conditions under which fees or expenses may be charged, waived, reduced, or refunded and of when and how the fees and expenses must be paid.

**96.40 (b) <sup>c</sup>** Before providing any adoption service to prospective adoptive parent(s), the agency or person itemizes and discloses in writing the following information for each separate category of fees and estimated expenses that the prospective adoptive parent(s) will be charged in connection with a Convention adoption:

- (1) Homestudy: the expected total fees and estimated expenses for home study preparation and approval, whether the home study is to be prepared directly by the agency or person itself, or prepared by a supervised provider, exempted provider, or approved person and approved as required under Section 96.47;
- (2) Adoption Expenses in the United States: the expected total fees and estimated expenses for all adoption services other than the home study that will be provided in the United States, including but is not limited to, personnel costs, administrative overhead, operational costs, training and education, communications and publications costs, and any other costs related to providing adoption services in the United States;
- (3) Foreign Country Program Expenses: the expected total fees and estimated expenses for all adoption services that will be provided in the child's Convention country, including, but is not limited to, costs for personnel, administrative overhead, training, education, legal services, and communications, and any other costs related to providing adoption services in the child's Convention country;
- (4) Care of the Child: the expected total fees and estimated expenses charged to prospective adoptive parent(s) for the care of the child in the country of origin prior to adoption, including, but not limited to, costs for food, clothing, shelter and medical care; foster care services; orphanage care; and any other services provided directly to the child;

- (5) Translation and Document Expenses: the expected total fees and estimated expenses for obtaining any necessary documents and for any translation of documents related to the adoption, along with information on whether the prospective adoptive parent(s) will be expected to pay such costs directly or to third parties, either in the United States or in the child's Convention country, or through the agency or person. This category includes, but is not limited to, costs for obtaining, translating, or copying records or documents required to complete the adoption, costs for the child's Convention court documents, passport, adoption certificate and other documents related to the adoption, and costs for notarizations and certifications;
- (6) Contributions: any fixed contribution amount or percentage that the prospective adoptive parent(s) will be expected or required to make to child protection or child welfare service programs in the child's Convention country or in the United States, along with an explanation of the intended use of the contribution and the manner in which the transaction will be recorded and accounted for; and
- (7) Post-placement and Post-adoption Reports: the expected total fees and estimated expenses for any post-placement or post-adoption reports that the agency or person or parent(s) must prepare in light of any requirements of the expected country of origin.

**96.40 (c)**<sup>c</sup> If the following fees and estimated expenses were not disclosed as part of the categories identified in paragraph (b) of this section, the agency or person itemizes and discloses in writing any:

- (1) third Party Fees: the expected total fees and estimated expenses for services that the prospective adoptive parent(s) will be responsible to pay directly to a third party. Such third party fees include, but are not limited to, fees to competent authorities for services rendered or Central Authority processing fees; and
- (2) travel and Accommodation Expenses: the expected total fees and estimated expenses for any travel, transportation, and accommodation services arranged by the agency or person for the prospective adoptive parent(s).

**96.40 (d)**<sup>c</sup> The agency or person also specifies in its adoption services contract when and how funds advanced to cover fees or expenses will be refunded if adoption services are not provided.

**96.40 (e)**<sup>c</sup> When the agency or person uses part of its fees to provide special services, such as cultural programs for adoptee(s), scholarships or other services, it discloses this policy to the prospective adoptive parent(s) in advance of providing any adoption services and gives the prospective adoptive parent(s) a general description of the programs supported by such funds.

**96.40 (f)**<sup>f</sup> The agency or person has mechanisms in place for transferring funds to Convention countries when the financial institutions of the Convention country so permit and for obtaining written receipts for such transfers, so that direct cash transactions by

the prospective adoptive parent(s) to pay for adoption services provided in the Convention country are minimized or unnecessary.

- 96.40 (g) <sup>C</sup>** The agency or person does not customarily charge additional fees and expenses beyond those disclosed in the adoption services contract and has a written policy to this effect. In the event that unforeseen additional fees and expenses are incurred in the Convention country, the agency or person charges such additional fees and expenses only under the following conditions:
- (1) it discloses the fees and expenses in writing to the prospective adoptive parent(s);
  - (2) it obtains the specific consent of the prospective adoptive parent(s) prior to expending any funds in excess of \$1000 for which the agency or person will hold the prospective adoptive parent(s) responsible or gives the prospective adoptive parent(s) the opportunity to waive the notice and consent requirement in advance. If the prospective adoptive parent(s) has the opportunity to waive the notice and consent requirement in advance, this policy is reflected in the written policies and procedures of the agency or person; and
  - (3) it provides written receipts to the prospective adoptive parent(s) for fees and expenses paid directly by the agency or person in the Convention country and retains copies of such receipts.

- 96.40 (h) <sup>F</sup>** The agency or person returns any funds to which the prospective adoptive parent(s) may be entitled within sixty days of the completion of the delivery of services.

## RESPONDING TO COMPLAINTS AND RECORDS AND REPORTS MANAGEMENT

### Section 96.41      Procedures for Responding to Complaints and Improving Service Delivery

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- 96.41 (a)** <sup>C</sup> The agency or person has written complaint policies and procedures that incorporate the standards in paragraphs (b) through (h) of this section and provides a copy of such policies and procedures, including contact information for the Complaint Registry, to client(s) at the time the adoption services contract is signed.
- 96.41 (b)** <sup>C</sup> The agency or person permits any birth parent, prospective adoptive parent or adoptive parent, or adoptee to lodge directly with the agency or person signed and dated complaints about any of the services or activities of the agency or person (including its use of supervised providers) that he or she believes raise an issue of compliance with the Convention, the IAA, or the regulations implementing the IAA, and advises such individuals of the additional procedures available to them if they are dissatisfied with the agency's or person's response to their complaint.
- 96.41 (c)** <sup>C</sup> The agency or person responds in writing to complaints received pursuant to paragraph (b) of this section within thirty days of receipt, and provides expedited review of such complaints that are time-sensitive or that involve allegations of fraud.
- 96.41 (d)** <sup>F</sup> The agency or person maintains a written record of each complaint received pursuant to paragraph (b) of this section and the steps taken to investigate and respond to it and makes this record available to the accrediting entity or the Secretary upon request.
- 96.41 (e)** <sup>C</sup> The agency or person does not take any action to discourage a client or prospective client from, or retaliate against a client or prospective client for: making a complaint; expressing a grievance; providing information in writing or interviews to an accrediting entity on the agency's or person's performance; or questioning the conduct of or expressing an opinion about the performance of an agency or person.
- 96.41 (f)** <sup>C</sup> The agency or person provides to the accrediting entity and the Secretary, on a semi-annual basis, a summary of all complaints received pursuant to paragraph (b) of this section during the preceding six months (including the number of complaints received and how each complaint was resolved) and an assessment of any discernible patterns in complaints received against the agency or person pursuant to paragraph (b) of this section, along with information about what systemic changes, if any, were made or are planned by the agency or person in response to such patterns.
- 96.41 (g)** <sup>C</sup> The agency or person provides any information about complaints received pursuant to paragraph (b) of this section as may be requested by the accrediting entity or the Secretary.
- 96.41 (h)** <sup>F</sup> The agency or person has a quality improvement program appropriate to its size and circumstances through which it makes systematic efforts to improve its adoption

services as needed. The agency or person uses quality improvement methods such as reviewing complaint data, using client satisfaction surveys, or comparing the agency's or person's practices and performance against the data contained in the Secretary's annual reports to Congress on intercountry adoptions.

## **Section 96.42          Retention, Preservation, and Disclosure of Adoption Records**

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- 96.42 (a)** <sup>C</sup>      The agency or person retains or archives adoption records in a safe, secure, and retrievable manner for the period of time required by applicable State law.
- 96.42 (b)** <sup>C</sup>      The agency or person makes readily available to the adoptee and the adoptive parent(s) upon request all non-identifying information in its custody about the adoptee's health history or background.
- 96.42 (c)** <sup>C</sup>      The agency or person ensures that personal data gathered or transmitted in connection with an adoption is used only for the purposes for which the information was gathered and safeguards sensitive individual information.
- 96.42 (d)** <sup>C</sup>      The agency or person has a plan that is consistent with the provisions of this section, the plan required under Section 96.33, and applicable State law for transferring custody of adoption records that are subject to retention or archival requirements to an appropriate custodian, and ensuring the accessibility of those adoption records, in the event that the agency or person ceases to provide or is no longer permitted to provide adoption services under the Convention.
- 96.42 (e)** <sup>F</sup>      The agency or person notifies the accrediting entity and the Secretary in writing within thirty days of the time it ceases to provide or is no longer permitted to provide adoption services and provides information about the transfer of its adoption records.

## **Section 96.43          Case Tracking, Data Management, and Reporting**

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- 96.43 (a)** <sup>C</sup>      When acting as the primary provider, the agency or person maintains all the data required in this section in a format approved by the accrediting entity and provides it to the accrediting entity on an annual basis.
- 96.43 (b)** <sup>F</sup>      When acting as the primary provider, the agency or person routinely generates and maintains reports as follows:
- (1)      for cases involving children immigrating to the United States, information and reports on the total number of intercountry adoptions undertaken by the agency or person each year in both Convention and non-Convention cases and, for each case:
    - (i)      the Convention country or other country from which the child emigrated;
    - (ii)     the State to which the child immigrated;

- (iii) the State, Convention country, or other country in which the adoption was finalized;
  - (iv) the age of the child; and
  - (v) the date of the child's placement for adoption.
- (2) for cases involving children emigrating from the United States, information and reports on the total number of intercountry adoptions undertaken by the agency or person each year in both Convention and non-Convention cases and, for each case:
  - (i) the State from which the child emigrated;
  - (ii) the Convention country or other country to which the child immigrated;
  - (iii) the State, Convention country, or other country in which the adoption was finalized;
  - (iv) the age of the child; and
  - (v) the date of the child's placement for adoption.
- (3) for each disrupted placement involving a Convention adoption, information and reports about the disruption, including information on:
  - (i) the Convention country from which the child emigrated;
  - (ii) the State to which the child immigrated;
  - (iii) the age of the child;
  - (iv) the date of the child's placement for adoption;
  - (v) the reason(s) for and resolution(s) of the disruption of the placement for adoption, including information on the child's re-placement for adoption and final legal adoption;
  - (vi) the names of the agencies or persons that handled the placement for adoption; and
  - (vii) the plans for the child.
- (4) wherever possible, for each dissolution of a Convention adoption, information and reports on the dissolution, including information on:
  - (i) the Convention country from which the child emigrated;
  - (ii) the State to which the child immigrated;
  - (iii) the age of the child;
  - (iv) the date of the child's placement for adoption;
  - (v) the reason(s) for and resolution(s) of the dissolution of the adoption, to the extent known by the agency or person;
  - (vi) the names of the agencies or persons that handled the placement for adoption; and
  - (vii) the plans for the child.
- (5) information on the shortest, longest, and average length of time it takes to complete a Convention adoption, set forth by the child's country of origin, calculated from the time the child is matched with the prospective adoptive parent(s) until the time the adoption is finalized by a court, excluding any period for appeal;

- (6) information on the range of adoption fees, including the lowest, highest, average, and the median of such fees, set forth by the child's country of origin, charged by the agency or person for Convention adoptions involving children immigrating to the United States in connection with their adoption.

**96.43 (c) <sup>F</sup>** If the agency or person provides adoption services in cases not subject to the Convention that involve a child emigrating from the United States for the purpose of adoption or after an adoption has been finalized, it provides such information as required by the Secretary directly to the Secretary and demonstrates to the accrediting entity that it has provided this information.

**NA** The agency or person does not provide any services in outgoing cases.

**96.43 (d) <sup>F</sup>** The agency or person provides any of the information described in paragraphs (a) through (c) of this section to the accrediting entity or the Secretary within thirty days of request.

## SERVICE PLANNING AND DELIVERY

### Section 96.44 Acting as Primary Provider

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- 96.44 (a)**<sup>c</sup> When required by Section 96.14(a), the agency or person acts as primary provider and adheres to the provisions in Section 96.14(b) through (e). When acting as the primary provider, the agency or person develops and implements a service plan for providing all adoption services and provides all such services, either directly or through arrangements with supervised providers, exempted providers, public domestic authorities, competent authorities, Central Authorities, public foreign authorities, or, to the extent permitted by Section 96.14(c), other foreign providers (agencies, persons, or other non-governmental entities).
- 96.44 (b)**<sup>c</sup> The agency or person has an organizational structure, financial and personnel resources, and policies and procedures in place that demonstrate that the agency or person is capable of acting as a primary provider in any Convention adoption case and, when acting as the primary provider, provides appropriate supervision to supervised providers and verifies the work of other foreign providers in accordance with Section Section 96.45 and 96.46.

### Section 96.45 Using Supervised Providers in the United States

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- 96.45 (a)**<sup>c</sup> The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider:
- (1) is in compliance with applicable State licensing and regulatory requirements in all jurisdictions in which it provides adoption services;
  - (2) does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children; and
  - (3) before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in Section 96.35.
- 96.45 (b)**<sup>c</sup> The agency or person, when acting as the primary provider and using supervised providers in the United States to provide adoption services, ensures that each such supervised provider operates under a written agreement with the primary provider that:
- (1) identifies clearly the adoption service(s) to be provided by the supervised provider and requires that the service(s) be provided in accordance with the applicable service standard(s) for accreditation and approval (for example: home study (Section 96.47); parent

- training (Section 96.48); child background studies and consent (Section 96.53));
- (2) requires the supervised provider to comply with the following standards regardless of the type of adoption services it is providing: Section 96.36 (prohibition on child-buying), Section 96.34 (compensation), Section 96.38 (employee training), Section 96.39(d) (waivers of liability), and Section 96.41(b) through (e) (complaints);
  - (3) identifies specifically the lines of authority between the primary provider and the supervised provider, the employee of the primary provider who will be responsible for supervision, and the employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;
  - (4) states clearly the compensation arrangement for the services to be provided and the fees and expenses to be charged by the supervised provider;
  - (5) specifies whether the supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;
  - (6) provides that, if billing the client(s) directly for its service, the supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within sixty days of the completion of the delivery of services;
  - (7) requires the supervised provider to meet the same personnel qualifications as accredited agencies and approved persons, as provided for in Section 96.37, except that, for purposes of Section 96.37(e)(3), (f)(3), and (g)(2), the work of the employee must be supervised by an employee of an accredited agency or approved person;
  - (8) requires the supervised provider to limit the use of and safeguard personal data gathered or transmitted in connection with an adoption, as provided for in Section 96.42;
  - (9) requires the supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;
  - (10) requires the supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;
  - (11) requires the supervised provider to disclose promptly to the primary provider any changes in the suitability information required by Section 96.35;
  - (12) permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the supervised provider is not in compliance with the agreement or the requirements of this section.

## Section 96.46

## Using Providers in Convention Countries

- 96.46 (a)**<sup>F</sup> The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in Convention countries, ensures that each such foreign supervised provider:
- (1) is in compliance with the laws of the Convention country in which it operates;
  - (2) does not engage in practices inconsistent with the Convention's principles of furthering the best interests of the child and preventing the sale, abduction, exploitation, or trafficking of children;
  - (3) before entering into an agreement with the primary provider for the provision of adoption services, discloses to the primary provider the suitability information listed in Section 96.35, taking into account the authorities in the Convention country that are analogous to the authorities identified in that section;
  - (4) does not have a pattern of licensing suspensions or other sanctions and has not lost the right to provide adoption services in any jurisdiction for reasons germane to the Convention; and
  - (5) is accredited in the Convention country in which it operates, if such accreditation is required by the laws of that Convention country to perform the adoption services it is providing.
- 96.46 (b)**<sup>F</sup> The agency or person, when acting as the primary provider and using foreign supervised providers to provide adoption services in Convention countries, ensures that each such foreign supervised provider operates under a written agreement with the primary provider that:
- (1) identifies clearly the adoption service(s) to be provided by the foreign supervised provider;
  - (2) requires the foreign supervised provider, if responsible for obtaining medical or social information on the child, to comply with the standards in Section 96.49(d) through (j);
  - (3) requires the foreign supervised provider to adhere to the standard in Section 96.36(a) prohibiting child buying; and has written policies and procedures in place reflecting the prohibitions in Section 96.36(a) and reinforces them in training programs for its employees and agents;
  - (4) requires the foreign supervised provider to compensate its directors, officers, and employees who provide intercountry adoption services on a fee-for-service, hourly wage, or salary basis, rather than based on whether a child is placed for adoption, located for an adoptive placement, or on a similar contingent fee basis;
  - (5) identifies specifically the lines of authority between the primary provider and the foreign supervised provider, the employee of the primary provider who will be responsible for supervision, and the

- employee of the supervised provider who will be responsible for ensuring compliance with the written agreement;
- (6) states clearly the compensation arrangement for the services to be provided and the fees and expenses to be charged by the foreign supervised provider;
  - (7) specifies whether the foreign supervised provider's fees and expenses will be billed to and paid by the client(s) directly or billed to the client through the primary provider;
  - (8) provides that, if billing the client(s) directly for its service, the foreign supervised provider will give the client(s) an itemized bill of all fees and expenses to be paid, with a written explanation of how and when such fees and expenses will be refunded if the service is not completed, and will return any funds collected to which the client(s) may be entitled within sixty days of the completion of the delivery of services;
  - (9) requires the foreign supervised provider to respond within a reasonable period of time to any request for information from the primary provider, the Secretary, or the accrediting entity that issued the primary provider's accreditation or approval;
  - (10) requires the foreign supervised provider to provide the primary provider on a timely basis any data that is necessary to comply with the primary provider's reporting requirements;
  - (11) requires the foreign supervised provider to disclose promptly to the primary provider any changes in the suitability information required by Section 96.35; and
  - (12) permits suspension or termination of the agreement on reasonable notice if the primary provider has grounds to believe that the foreign supervised provider is not in compliance with the agreement or the requirements of this section.

**96.46 (c) <sup>F</sup>** The agency or person, when acting as the primary provider and, in accordance with Section 96.14, using foreign providers that are not under its supervision, verifies, through review of the relevant documentation and other appropriate steps, that:

- (1) any necessary consent to termination of parental rights or to adoption obtained by the foreign provider was obtained in accordance with applicable foreign law and Article 4 of the Convention;
- (2) any background study and report on a child in a case involving immigration to the United States (an incoming case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 16 of the Convention; and
- (3) any home study and report on prospective adoptive parent(s) in a case involving emigration from the United States (an outgoing case) performed by the foreign provider was performed in accordance with applicable foreign law and Article 15 of the Convention.

**STANDARDS FOR CASES IN WHICH A CHILD IS IMMIGRATING  
TO THE UNITED STATES (INCOMING CASES)**

**NA** The agency or person does not provide adoption services in any incoming cases.

**Section 96.47**            **Preparation of Home Studies in Incoming Cases**

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- 96.47 (a) <sup>c</sup>** The agency or person ensures that a home study on the prospective adoptive parent(s) (which for purposes of this section includes the initial report and any supplemental statement submitted to DHS) is completed that includes the following:
- (1) information about the prospective adoptive parent(s)' identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom the prospective adoptive parent(s) would be qualified to care (specifying in particular whether they are willing and able to care for a child with special needs);
  - (2) a determination whether the prospective adoptive parent(s) are eligible and suited to adopt;
  - (3) a statement describing the counseling and training provided to the prospective adoptive parent(s);
  - (4) the results of a criminal background check on the prospective adoptive parent(s) and any other individual for whom a check is required by 8 CFR 204.3(e);
  - (5) a full and complete statement of all facts relevant to the eligibility and suitability of the prospective adoptive parent(s) to adopt a child under any specific requirements identified to the Secretary by the Central Authority of the child's country of origin; and
  - (6) a statement in each copy of the home study that it is a true and accurate copy of the home study that was provided to the prospective adoptive parent(s) or DHS.
- 96.47 (b) <sup>c</sup>** The agency or person ensures that the home study is performed in accordance with 8 CFR 204.3(e), and any applicable State law.
- 96.47 (c) <sup>c</sup>** Where the home study is not performed in the first instance by an accredited agency or temporarily accredited agency, the agency or person ensures that the home study is reviewed and approved in writing by an accredited agency or temporarily accredited agency. The written approval must include a determination that the home study:
- (1) includes all of the information required by paragraph (a) of this section and is performed in accordance with 8 CFR 204.3(e), and applicable State law; and
  - (2) was performed by an individual who meets the requirements in Section 96.37(f), or, if the individual is an exempted provider,

ensures that the individual meets the requirements for home study providers established by 8 CFR 204.3(b).

**96.47 (d)**<sup>F</sup> The agency or person takes all appropriate measures to ensure the timely transmission of the same home study that was provided to the prospective adoptive parent(s) or to DHS to the Central Authority of the child's country of origin (or to an alternative authority designated by that Central Authority).

**Section 96.48            Preparation and Training of Prospective Adoptive Parent(s) in Incoming Cases**

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**96.48 (a)**<sup>C</sup> The agency or person provides prospective adoptive parent(s) with at least ten hours (independent of the home study) of preparation and training, as described in paragraphs (b) and (c) of this section, designed to promote a successful intercountry adoption. The agency or person provides such training before the prospective adoptive parent(s) travel to adopt the child or the child is placed with the prospective adoptive parent(s) for adoption.

**96.48 (b)**<sup>F</sup> The training provided by the agency or person addresses the following topics:

- (1) the intercountry adoption process, the general characteristics and needs of children awaiting adoption, and the in-country conditions that affect children in the Convention country from which the prospective adoptive parent(s) plan to adopt;
- (2) the effects on children of malnutrition, relevant environmental toxins, maternal substance abuse, and of any other known genetic, health, emotional, and developmental risk factors associated with children from the expected country of origin;
- (3) information about the impact on a child of leaving familiar ties and surroundings, as appropriate to the expected age of the child;
- (4) data on institutionalized children and the impact of institutionalization on children, including the effect on children of the length of time spent in an institution and of the type of care provided in the expected country of origin;
- (5) information on attachment disorders and other emotional problems that institutionalized or traumatized children and children with a history of multiple caregivers may experience, before and after their adoption;
- (6) information on the laws and adoption processes of the expected country of origin, including foreseeable delays and impediments to finalization of an adoption;
- (7) information on the long-term implications for a family that has become multicultural through intercountry adoption; and
- (8) an explanation of any reporting requirements associated with Convention adoptions, including any post-placement or post-adoption reports required by the expected country of origin.

- 96.48 (c)**<sup>F</sup> The agency or person also provides the prospective adoptive parent(s) with training that allows them to be as fully prepared as possible for the adoption of a particular child. This includes counseling on:
- (1) the child's history and cultural, racial, religious, ethnic, and linguistic background;
  - (2) the known health risks in the specific region or country where the child resides; and
  - (3) any other medical, social, background, birth history, educational data, developmental history, or any other data known about the particular child.
- 96.48 (d)**<sup>F</sup> The agency or person provides such training through appropriate methods, including:
- (1) collaboration among agencies or persons to share resources to meet the training needs of prospective adoptive parents;
  - (2) group seminars offered by the agency or person or other agencies or training entities;
  - (3) individual counseling sessions;
  - (4) video, computer-assisted, or distance learning methods using standardized curricula; or
  - (5) in cases where training cannot otherwise be provided, an extended home study process, with a system for evaluating the thoroughness with which the topics have been covered.
- 96.48 (e)**<sup>F</sup> The agency or person provides additional in-person, individualized counseling and preparation, as needed, to meet the needs of the prospective adoptive parent(s) in light of the particular child to be adopted and his or her special needs, and any other training or counseling needed in light of the child background study or the home study.
- 96.48 (f)**<sup>F</sup> The agency or person provides the prospective adoptive parent(s) with information about print, internet, and other resources available for continuing to acquire information about common behavioral, medical, and other issues; connecting with parent support groups, adoption clinics and experts; and seeking appropriate help when needed.
- 96.48 (g)**<sup>F</sup> The agency or person exempts prospective adoptive parent(s) from all or part of the training and preparation that would normally be required for a specific adoption only when the agency or person determines that the prospective adoptive parent(s) have received adequate prior training or have prior experience as parent(s) of children adopted from abroad.
- 96.48 (h)**<sup>F</sup> The agency or person records the nature and extent of the training and preparation provided to the prospective adoptive parent(s) in the adoption record.

**Section 96.49            Provision of Medical and Social Information in Incoming Cases**

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- 96.49 (a)** <sup>C</sup> The agency or person provides a copy of the child's medical records (including, to the fullest extent practicable, a correct and complete English-language translation of such records) to the prospective adoptive parent(s) as early as possible, but no later than two weeks before either the adoption or placement for adoption, or the date on which the prospective adoptive parent(s) travel to the Convention country to complete all procedures in such country relating to the adoption or placement for adoption, whichever is earlier.
- 96.49 (b)** <sup>F</sup> Where any medical record provided pursuant to paragraph (a) of this section is a summary or compilation of other medical records, the agency or person includes those underlying medical records in the medical records provided pursuant to paragraph (a) if they are available.
- 96.49 (c)** <sup>F</sup> The agency or person provides the prospective adoptive parent(s) with any untranslated medical reports or videotapes or other reports and provides an opportunity for the client(s) to arrange for their own translation of the records, including a translation into a language other than English, if needed.
- 96.49 (d)** <sup>C</sup> The agency or person itself uses reasonable efforts, or requires its supervised provider in the child's country of origin who is responsible for obtaining medical information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:
- (1) the date that the Convention country or other child welfare authority assumed custody of the child and the child's condition at that time;
  - (2) history of any significant illnesses, hospitalizations, special needs, and changes in the child's condition since the Convention country or other child welfare authority assumed custody of the child;
  - (3) growth data, including prenatal and birth history, and developmental status over time and current developmental data at the time of the child's referral for adoption; and
  - (4) specific information on the known health risks in the specific region or country where the child resides.
- 96.49 (e)** <sup>C</sup> If the agency or person provides medical information, other than the information provided by public foreign authorities, to the prospective adoptive parent(s) from an examination by a physician or from an observation of the child by someone who is not a physician, the agency or person uses reasonable efforts to include the following:
- (1) the name and credentials of the physician who performed the examination or the individual who observed the child;
  - (2) the date of the examination or observation; how the report's information was retained and verified; and if anyone directly responsible for the child's care has reviewed the report;
  - (3) if the medical information includes references, descriptions, or observations made by any individual other than the physician who performed the examination or the individual who performed the observation, the identity of that individual, the individual's training,

and information on what data and perceptions the individual used to draw his or her conclusions;

- (4) a review of hospitalizations, significant illnesses, and other significant medical events, and the reasons for them;
- (5) information about the full range of any tests performed on the child, including tests addressing known risk factors in the child's country of origin; and
- (6) current health information.

- 96.49 (f)** <sup>C</sup> The agency or person itself uses reasonable efforts, or requires its supervised provider in the child's country of origin who is responsible for obtaining social information about the child on behalf of the agency or person to use reasonable efforts, to obtain available information, including in particular:
- (1) information about the child's birth family and prenatal history and cultural, racial, religious, ethnic, and linguistic background;
  - (2) information about all of the child's past and current placements prior to adoption, including, but not limited to any social work or court reports on the child and any information on who assumed custody and provided care for the child; and
  - (3) information about any birth siblings whose existence is known to the agency or person, or its supervised provider, including information about such siblings' whereabouts.
- 96.49 (g)** <sup>C</sup> Where any of the information listed in paragraphs (d) and (f) of this section cannot be obtained, the agency or person documents in the adoption record the efforts made to obtain the information and why it was not obtainable. The agency or person continues to use reasonable efforts to secure those medical or social records that could not be obtained up until the adoption is finalized.
- 96.49 (h)** <sup>F</sup> Where available, the agency or person provides information for contacting the examining physician or the individual who made the observations to any physician engaged by the prospective adoptive parent(s), upon request.
- 96.49 (i)** <sup>F</sup> The agency or person ensures that videotapes and photographs of the child are identified by the date on which the videotape or photograph was recorded or taken and that they were made in compliance with the laws in the country where recorded or taken.
- 96.49 (j)** <sup>C</sup> The agency or person does not withhold from or misrepresent to the prospective adoptive parent(s) any available medical, social, or other pertinent information concerning the child.
- 96.49 (k)** <sup>F</sup> The agency or person does not withdraw a referral until the prospective adoptive parent(s) have had two weeks (unless extenuating circumstances involving the child's best interests require a more expedited decision) to consider the needs of the child and their ability to meet those needs, and to obtain physician review of medical information and other descriptive information, including videotapes of the child if available.

**Section 96.50            Placement and Post-Placement Monitoring Until Final Adoption in Incoming Cases**

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- 96.50 (a) <sup>c</sup>**    The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the prospective adoptive parent(s).
- 96.50 (b) <sup>c</sup>**    In the post-placement phase, the agency or person monitors and supervises the child's placement to ensure that the placement remains in the best interests of the child, and ensures that at least the number of home visits required by State law or by the child's country of origin are performed, whichever is greater.
- 96.50 (c) <sup>c</sup>**    When a placement for adoption is in crisis in the post-placement phase, the agency or person makes an effort to provide or arrange for counseling by an individual with appropriate skills to assist the family in dealing with the problems that have arisen.
- 96.50 (d) <sup>c</sup>**    If counseling does not succeed in resolving the crisis and the placement is disrupted, the agency or person assuming custody of the child assumes responsibility for making another placement of the child.
- 96.50 (e) <sup>c</sup>**    The agency or person acts promptly and in accord with any applicable legal requirements to remove the child when the placement may no longer be in the child's best interests, to provide temporary care, to find an eventual adoptive placement for the child, and, in consultation with the Secretary, to inform the Central Authority of the child's country of origin about any new prospective adoptive parent(s).
- (1)    In all cases where removal of a child from a placement is considered, the agency or person considers the child's views when appropriate in light of the child's age and maturity and, when required by State law, obtains the consent of the child prior to removal.
  - (2)    The agency or person does not return from the United States a child placed for adoption in the United States unless the Central Authority of the country of origin and the Secretary have approved the return in writing.
- 96.50 (f) <sup>F</sup>**    The agency or person includes in the adoption services contract with the prospective adoptive parent(s) a plan describing the agency's or person's responsibilities if a placement for adoption is disrupted. This plan addresses:
- (1)    who will have legal and financial responsibility for transfer of custody in an emergency or in the case of impending disruption and for the care of the child;
  - (2)    if the disruption takes place after the child has arrived in the United States, under what circumstances the child will, as a last resort, be returned to the child's country of origin, if that is determined to be in the child's best interests;

- (3) how the child's wishes, age, length of time in the United States, and other pertinent factors will be taken into account; and
- (4) how the Central Authority of the child's country of origin and the Secretary will be notified.

**96.50 (g)**<sup>C</sup> The agency or person provides post-placement reports until final adoption of a child to the Convention country when required by the Convention country. Where such reports are required, the agency or person:

- (1) informs the prospective adoptive parent(s) in the adoption services contract of the requirement prior to the referral of the child for adoption;
- (2) informs the prospective adoptive parent(s) that they will be required to provide all necessary information for the report(s); and
- (3) discloses who will prepare the reports and the fees that will be charged.

**96.50 (h)**<sup>F</sup> The agency or person takes steps to:

- (1) ensure that an order declaring the adoption as final is sought by the prospective adoptive parent(s), and entered in compliance with section 301(c) of the IAA (42 U.S.C. 14931(c)); and
- (2) notify the Secretary of the finalization of the adoption within thirty days of the entry of the order.

## **Section 96.51 Post-Adoption Services in Incoming Cases**

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**96.51 (a)**<sup>F</sup> The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s).

**96.51 (b)**<sup>F</sup> The agency or person informs the prospective adoptive parent(s) in the adoption services contract whether the agency or person will or will not provide any post-adoption services. The agency or person also informs the prospective adoptive parent(s) in the adoption services contract whether it will provide services if an adoption is dissolved, and, if it indicates it will, it provides a plan describing the agency's or person's responsibilities.

**96.51 (c)**<sup>F</sup> When post-adoption reports are required by the child's country of origin, the agency or person includes a requirement for such reports in the adoption services contract and makes good-faith efforts to encourage adoptive parent(s) to provide such reports.

**96.51 (d)**<sup>C</sup> The agency or person does not return from the United States an adopted child whose adoption has been dissolved unless the Central Authority of the country of origin and the Secretary have approved the return in writing.

## **Section 96.52 Performance of Convention Communication and Coordination**

## Functions in Incoming Cases

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- 96.52 (a)**<sup>F</sup> The agency or person keeps the Central Authority of the Convention country and the Secretary informed as necessary about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.
- 96.52 (b)**<sup>C</sup> The agency or person takes all appropriate measures, consistent with the procedures of the U.S. Central Authority and of the Convention country, to:
- (1) transmit on a timely basis the home study to the Central Authority or other competent authority of the child's country of origin;
  - (2) obtain the child background study, proof that the necessary consents to the child's adoption have been obtained, and the necessary determination that the prospective placement is in the child's best interests, from the Central Authority or other competent authority in the child's country of origin;
  - (3) provide confirmation that the prospective adoptive parent(s) agree to the adoption to the Central Authority or other competent authority in the child's country of origin; and
  - (4) transmit the determination that the child is or will be authorized to enter and reside permanently in the United States to the Central Authority or other competent authority in the child's country of origin.
- 96.52 (c)**<sup>C</sup> The agency or person takes all necessary and appropriate measures, consistent with the procedures of the Convention country, to obtain permission for the child to leave his or her country of origin and to enter and reside permanently in the United States.
- 96.52 (d)**<sup>F</sup> Where the transfer of the child does not take place, the agency or person returns the home study on the prospective adoptive parent(s) and/or the child background study to the authorities that forwarded them.
- 96.52 (e)**<sup>C</sup> The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary identifies are required to comply with the Convention, the IAA, or any regulations implementing the IAA.

**STANDARDS FOR CASES IN WHICH A CHILD IS EMIGRATING  
FROM THE UNITED STATES (OUTGOING CASES)**

**NA** The agency or person does not provide adoption services in any outgoing cases.

**Section 96.53 Background Studies on the Child and Consents in Outgoing Cases**

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- 96.53 (a)**<sup>c</sup> The agency or person takes all appropriate measures to ensure that a child background study is performed that includes information about the child's identity, adoptability, background, social environment, family history, medical history (including that of the child's family), and any special needs of the child. The child background study must include the following:
- (1) information that demonstrates that consents were obtained in accordance with paragraph (c) of this section;
  - (2) information that demonstrates consideration of the child's wishes and opinions in accordance with paragraph (d) of this section and;
  - (3) information that confirms that the child background study was prepared either by an exempted provider or by an individual who meets the requirements set forth in Section 96.37(g).
- 96.53 (b)**<sup>c</sup> Where the child background study is not prepared in the first instance by an accredited agency or temporarily accredited agency, the agency or person ensures that the child background study is reviewed and approved in writing by an accredited agency or temporarily accredited agency. The written approval must include a determination that the background study includes all the information required by paragraph (a) of this section.
- 96.53 (c)**<sup>c</sup> The agency or person takes all appropriate measures to ensure that consents have been obtained as follows:
- (1) the persons, institutions, and authorities whose consent is necessary for adoption have been counseled as necessary and duly informed of the effects of their consent, in particular, whether or not an adoption will result in the termination of the legal relationship between the child and his or her family of origin;
  - (2) all such persons, institutions, and authorities have given their consents;
  - (3) the consents have been expressed or evidenced in writing in the required legal form, have been given freely, were not induced by payments or compensation of any kind, and have not been withdrawn;
  - (4) the consent of the mother, where required, was executed after the birth of the child;
  - (5) the child, as appropriate in light of his or her age and maturity, has been counseled and duly informed of the effects of the adoption and of his or her consent to the adoption; and

- (6) the child's consent, where required, has been given freely, in the required legal form, and expressed or evidenced in writing and not induced by payment or compensation of any kind.

**96.53 (d) <sup>c</sup>** If the child is twelve years of age or older, or as otherwise provided by State law, the agency or person gives due consideration to the child's wishes or opinions before determining that an intercountry placement is in the child's best interests.

**96.53 (e) <sup>c</sup>** The agency or person prior to the child's adoption takes all appropriate measures to transmit to the Central Authority or other competent authority or accredited bodies of the Convention country the child background study, proof that the necessary consents have been obtained, and the reasons for its determination that the placement is in the child's best interests. In doing so, the agency or person, as required by Article 16(2) of the Convention, does not reveal the identity of the mother or the father if these identities may not be disclosed under State law.

## **Section 96.54            Placement Standards in Outgoing Cases**

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**96.54 (a) <sup>c</sup>** Except in the case of adoption by relatives or in the case in which the birth parent(s) have identified specific prospective adoptive parent(s) or in other special circumstances accepted by the State court with jurisdiction over the case, the agency or person makes reasonable efforts to find a timely adoptive placement for the child in the United States by:

- (1) disseminating information on the child and his or her availability for adoption through print, media, and internet resources designed to communicate with potential prospective adoptive parent(s) in the United States;
- (2) listing information about the child on a national or State adoption exchange or registry for at least sixty calendar days after the birth of the child;
- (3) responding to inquiries about adoption of the child; and
- (4) providing a copy of the child background study to potential U.S. prospective adoptive parent(s).

**96.54 (b) <sup>c</sup>** The agency or person demonstrates to the satisfaction of the State court with jurisdiction over the adoption that sufficient reasonable efforts (including no efforts, when in the best interests of the child) to find a timely and qualified adoptive placement for the child in the United States were made.

**96.54 (c) <sup>c</sup>** In placing the child for adoption, the agency or person:

- (1) to the extent consistent with State law, gives significant weight to the placement preferences expressed by the birth parent(s) in all voluntary placements;

- (2) to the extent consistent with State law, makes diligent efforts to place siblings together for adoption and, where placement together is not possible, to arrange for contact between separated siblings, unless it is in the best interests of one of the siblings that such efforts or contact not take place; and
- (3) complies with all applicable requirements of the Indian Child Welfare Act.

- 96.54 (d)** <sup>C</sup> The agency or person complies with any State law requirements pertaining to the provision and payment of independent legal counsel for birth parents. If State law requires full disclosure to the birth parent(s) that the child is to be adopted by parent(s) who reside outside the United States, the agency or person provides such disclosure.
- 96.54 (e)** <sup>F</sup> The agency or person takes all appropriate measures to give due consideration to the child's upbringing and to his or her ethnic, religious, and cultural background.
- 96.54 (f)** <sup>C</sup> When particular prospective adoptive parent(s) in a Convention country have been identified, the agency or person takes all appropriate measures to determine whether the envisaged placement is in the best interests of the child, on the basis of the child background study and the home study on the prospective adoptive parent(s).
- 96.54 (g)** <sup>F</sup> The agency or person thoroughly prepares the child for the transition to the Convention country, using age-appropriate services that address the child's likely feelings of separation, grief, and loss and difficulties in making any cultural, religious, racial, ethnic, or linguistic adjustment.
- 96.54 (h)** <sup>C</sup> The agency or person takes all appropriate measures to ensure that the transfer of the child takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if possible, in the company of the adoptive parent(s) or the prospective adoptive parent(s);
- 96.54 (i)** <sup>F</sup> Before the placement for adoption proceeds, the agency or person identifies the entity in the receiving country that will provide post-placement supervision and reports, if required by State law, and ensures that the child's adoption record contains the information necessary for contacting that entity.
- 96.54 (j)** <sup>C</sup> The agency or person ensures that the child's adoption record includes the order granting the adoption or legal custody for the purpose of adoption in the Convention country.
- 96.54 (k)** <sup>C</sup> The agency or person consults with the Secretary before arranging for the return to the United States of any child who has emigrated to a Convention country in connection with the child's adoption.

**Section 96.55                      Performance of Convention Communication and Coordination Functions in Outgoing Cases**

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- 96.55 (a)**<sup>F</sup> The agency or person keeps the Central Authority of the Convention country and the Secretary informed as necessary about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.
- 96.55 (b)**<sup>C</sup> The agency or person ensures that:
- (1) copies of all documents from the State court proceedings, including the order granting the adoption or legal custody, are provided to the Secretary;
  - (2) any additional information on the adoption is transmitted to the Secretary promptly upon request; and
  - (3) it otherwise facilitates, as requested, the Secretary's ability to provide the certification that the child has been adopted or that custody has been granted for the purpose of adoption, in accordance with the Convention and the IAA.
- 96.55 (c)**<sup>F</sup> Where the transfer of the child does not take place, the agency or person returns the home study on the prospective adoptive parent(s) and/or the child background study to the authorities that forwarded them.
- 96.55 (d)**<sup>C</sup> The agency or person provides to the State court with jurisdiction over the adoption:
- (1) proof that consents have been given as required in Section 96.53(c);
  - (2) an English copy or certified English translation of the home study on the prospective adoptive parent(s) in the Convention country, and the determination by the agency or person that the placement with the prospective adoptive parent(s) is in the child's best interests;
  - (3) evidence that the prospective adoptive parent(s) in the Convention country agree to the adoption;
  - (4) evidence that the child will be authorized to enter and reside permanently in the Convention country or on the same basis as that of the prospective adoptive parent(s); and
  - (5) evidence that the Central Authority of the Convention country has agreed to the adoption, if such consent is necessary under its laws for the adoption to become final.
- 96.55 (e)**<sup>C</sup> The agency or person makes the showing required by Section 96.54 (b) to the State court with jurisdiction over the adoption.
- 96.55 (f)**<sup>C</sup> The agency or person takes all necessary and appropriate measures to perform any tasks in a Convention adoption case that the Secretary identifies are required to comply with the Convention, the IAA, or any regulations implementing the IAA.