



CEAS POLICY AND PROCEDURE

Policy Name: Policy on Adverse Action
Policy Number: ICA 8
Relevant Citations: 22 CFR Part 96.74-79
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U.S. Department of State: September 15, 2022

POLICY

Policy: Center for Excellence in Adoption Services (CEAS) takes adverse action in accordance with the provisions of 22 CFR Part 96., and in accordance with the Convention, the Intercountry Adoption Act (IAA), the Universal Accreditation Act (UAA), and any other applicable regulations, as additionally specified in the Memorandum of Agreement with the Department of State. In performing these functions, CEAS operates consistent with Department of State policies and written directives regarding U.S. obligations under the Convention and regarding the functions and responsibilities of an accrediting entity under the IAA, UAA, and any applicable regulations.

NOTE: This policy governs the use of adverse action under 22 CFR 96 Subpart K for both accreditation and approval renewal and monitoring and oversight of accredited agencies (agency) and approved persons (person) for intercountry adoption services. This policy does not apply to decisions about initial applications.

PROCEDURES

A. Overview

1. CEAS imposes adverse action on an agency or person when it determines it is appropriate in accordance with 22 CFR Part 96 Subpart K. The accrediting entity must take adverse action when it determines that an agency or person may not maintain accreditation or approval. CEAS may impose any of the following authorized adverse actions:
 - a) suspending accreditation or approval,
 - b) cancelling accreditation or approval,
 - c) refusing to renew accreditation or approval,
 - d) requiring an accredited agency or approved person to take a specific corrective action to bring itself into compliance, and
 - e) imposing other sanctions including, but not limited to, requiring an accredited agency or approved person to cease providing adoption services in a particular case or specific foreign country or stop accepting new applications.

2. During the accreditation or approval renewal process, CEAS staff review evidence and supporting documentation to determine whether an agency or person is in substantial compliance with applicable standards in 22 CFR Part 96 Subpart F.
3. In accordance with 22 CFR 96.66(a), using a method approved by the Secretary, CEAS monitors agencies and persons at least annually to ensure they are in substantial compliance with the standards in 22 CFR 96 Subpart F.

Monitoring and oversight activities, such as review of complaints and required self-reports, allow CEAS to continuously monitor an agency or person's substantial compliance with the standards in 22 CFR Part 96 Subpart F, in order to identify any deficiencies in performance.

B. Deferred Decision and Addressing Adverse Action that is Deferred, Prior to the Action Being Imposed

1. Upon determining deficiencies exist in an agency's or person's performance with applicable standard(s), in accordance with 22 CFR 96.24 (d), 96.63 (c), 96.76 (a) and (b), CEAS assesses the seriousness and type of violation(s) to determine whether to defer its decision to take adverse action, provide notice of the deficiencies and provide an opportunity for the agency or person to demonstrate the adverse action is unwarranted or has been corrected prior to the adverse action being imposed. CEAS considers various factors when making this determination, including but not limited to:
 - a) the weight of the standard or standards assigned by the Substantial Compliance System,
 - b) the pervasiveness or egregiousness of the deficiency or deficiencies,
 - c) the extent to which the agency or person has corrected or failed to correct deficiencies of which it has been previously informed, and
 - d) the impact on the well-being and safety of children.
2. CEAS notifies the agency or person in writing of the deficiencies and the decision on adverse action. The Notice of Deficiencies (Notice) includes:
 - a) the standard(s) on which compliance was found to be deficient,
 - b) the basis by which compliance with each standard was found to be deficient,
 - c) the type of adverse action being deferred,
 - d) the date(s) by which the evidence must be submitted to demonstrate the area(s) of deficiency have been corrected or to demonstrate the deferral of adverse action is based on error, and
 - e) instructions for submitting the petition to demonstrate the adverse action is unwarranted (Petition).
3. Upon receipt of the Petition and evidence from the agency or person to demonstrate corrective action and compliance with the standard(s) or to demonstrate adverse action is unwarranted based on error, within thirty (30) business days of receipt, CEAS:
 - a) completes a review of the Petition and evidence submitted and determines if the agency or person demonstrated it has corrected the deficiencies and has brought itself into compliance or whether the deferred adverse action was based on error.
 - (i) If the agency or person demonstrated corrective action was completed and it is in substantial compliance or the deferred adverse action was based on error, CEAS will not impose the withheld adverse action.
 - (ii) If the agency or person did not demonstrate it is in substantial compliance or the deferred adverse action was based on error, CEAS will impose the deferred adverse action or other type of adverse action.
 - b) notifies the agency or person of the decision.

C. Procedures for Adverse Action and Termination of Adverse Action

1. Upon determining deficiencies in an agency or person's performance with applicable standard(s), in accordance with 22 CFR 96.76 (a) and (b), CEAS assesses the seriousness and type of violation to determine the type of adverse action to be imposed. CEAS considers various factors when making this determination, including but not limited to, the weight of the standard or standards assigned by the Substantial Compliance System, the pervasiveness or egregiousness of the deficiency or deficiencies, the extent to which the agency or person has corrected or failed to correct deficiencies of which it has been previously informed, and the impact on the well-being and safety of children.
2. CEAS may impose more than one adverse action at the same time for an agency or person.
3. CEAS notifies the agency or person in writing of the decision to impose adverse action. The Notice of Deficiencies (Notice) includes:
 - a) the standard(s) on which compliance was found to be deficient,
 - b) the basis by which compliance with each standard was found to be deficient,
 - c) type of adverse action imposed,
 - d) effective date(s) of the adverse action(s),
 - e) instructions for requesting the adverse action be determined as unwarranted based on error if the notice and opportunity to demonstrate the action is unwarranted was not previously provided, and,
 - f) date by which the evidence must be submitted to demonstrate the area(s) of deficiency have been corrected or to demonstrate the imposed adverse action is based on error.
4. CEAS reserves the right to require a site visit to verify compliance with the standard(s) outlined in the Notice. The agency or person is responsible for payment of all fees associated with any site visit.
5. Upon receipt of the agency or person's Petition to Terminate the Adverse Action and evidence to demonstrate compliance with the standard(s) or to demonstrate adverse action is unwarranted based on error, within thirty (30) business days of receipt, CEAS:
 - a) completes a review of the Petition and supporting evidence submitted and determines whether or not the agency or person satisfactorily demonstrated it has corrected the deficiencies and whether it has brought itself into compliance or the imposed adverse action was based on error.
 - i. If the agency or person demonstrated it is in compliance or the imposed adverse action was based on error, CEAS terminates or withdraws the imposed adverse action, as applicable.
 - ii. If the agency or person did not demonstrate that it is in compliance or the imposed adverse action was based on error, CEAS may extend the imposed adverse action or impose another type of adverse action and provides an updated Notice of Deficiencies, as applicable.
 - b) notifies the agency or person of the decision.
6. In accordance with 22 CFR Part 96.78 (f), nothing in this section shall be construed to prevent CEAS from withdrawing an adverse action if it concludes that the action was based on a mistake of fact or was otherwise in error. Upon taking such action, CEAS notifies the agency or person in writing of its decision and take appropriate steps to notify the Secretary, and any other entity who received notification from CEAS of the Adverse Action.

D. Additional Procedures Specific to Each Type of Adverse Action

1. Specific Corrective Action

Specific Corrective Action: Requiring an agency or person to take specific corrective action(s) to bring itself into compliance and eliminate the causes of non-compliance.

- a) When CEAS imposes the adverse action of Specific Corrective Action, CEAS provides the agency or person with the written Notice as outlined in section C.3. above. This Notice also includes:
 - i. the actions the agency or person must take and/or the evidence that must be provided to correct the deficiency or deficiencies in performance or capacity when applicable, and
 - ii. the due date for completion of each Specific Corrective Action.

2. Other Adverse Action including Cessation of Service(s) (Cessation) and Hold on Applications

Other sanctions include, but are not limited to:

- Cessation: requiring an accredited agency or approved person to cease providing adoption services in a specific case, in specific types of cases, or in a specific foreign country, and
 - Hold on Applications: requiring an accredited agency or person to temporarily stop accepting new applications.
- a) When CEAS imposes the adverse action of Cessation, CEAS provides the agency or person with the written Notice as outlined in section C.3. above. This Notice also includes:
 - i. the specifics related to the cessation of adoption services in a particular case, types of cases, or country,
 - ii. projected length of time of the Cessation, and
 - iii. if the agency or person must enact its case transfer plans for a particular case, or cases and the requirement to provide refunds to clients for services not yet rendered, as applicable.
 - b) When CEAS imposes the adverse action of Hold on Applications, CEAS provides the agency or person with the written Notice as outlined in section C.3. above. This Notice also includes:
 - i. the specifics related to the types of applications that the agency or person must not accept, and
 - ii. projected length of time of the Hold on Applications.
 - c) If at any time there is evidence of prior or imminent harm to a child, abduction, exploitation, sale, or trafficking of children, and/or fraud, CEAS may immediately impose the adverse action of Cessation and notify the agency or person via email and a phone call. In such circumstances, CEAS provides the full written Notice as outlined in sections C.3. and D.1.a. above, to the agency or person within five (5) business days.

3. Suspending Accreditation or Approval (Suspension)

Suspension: Suspension of Accreditation or Approval where the agency or person must cease to provide adoption services in all intercountry adoption cases until the suspension is terminated.

- a) When CEAS imposes the adverse action Suspension, CEAS provides the agency or person with the written Notice as outlined in section C.3. above. This Notice also includes:
 - i. projected length of time of the Suspension,
 - ii. if the agency or person must enact its case transfer plans for all cases or cases at a particular phase of the adoption process and the requirement to provide refunds to clients for services not yet rendered, as applicable.

If at any time there is evidence of prior or imminent harm to a child, abduction, exploitation, sale, or trafficking of children, and/or fraud, CEAS may immediately impose the adverse action of Suspension and notify the agency or person via email and a phone call. In such circumstances, CEAS provides the full written Notice as outlined in sections C.3. and D.1.a. above, to the agency or person within five (5) business days.

4. **Cancellation of Accreditation or Approval (Cancellation)**

Cancellation: The agency's accreditation or the person's approval has been cancelled and the agency or person must cease to provide adoption services in all intercountry adoption cases and must execute the plans required by 96.33(e) and 96.42(d) under the oversight of CEAS, and transfer its intercountry adoption cases and adoption records to other accredited agencies, approved persons, or a State archive, as appropriate.

- a) When CEAS imposes Cancellation, CEAS provides the agency or person with the written Notice as outlined in section C.3. above. This Notice also includes:
 - i. the basis by which each standard was found to be deficient,
 - ii. the decision to impose the adverse action of Cancellation,
 - iii. the date the adverse action is effective, and
 - iv. the requirement for the agency or person to enact its case transfer plans and to provide refunds to clients for services not rendered.
- b) CEAS may determine the most appropriate first course of adverse action is Cancellation of the agency or person's accreditation or approval.
- c) Cancellation automatically results in a Refusal to Renew decision if the agency or person has a pending application for renewal.
- d) When CEAS imposes Cancellation and does not withdraw the adverse action based upon a finding the decision was made in error, the agency or person may reapply for accreditation or approval. Before doing so, the agency or person must request and obtain permission from CEAS to make a new application. CEAS only grants such permission if the agency or person demonstrates to CEAS's satisfaction that the specific deficiencies that led to the Cancellation have been corrected. If the agency or person is granted permission to reapply, the agency or person may file an application with CEAS in accordance with the steps outlined in CEAS's Initial and Renewal of Accreditation and Approval Policy.

4. **Refusal to Renew Accreditation or Approval (Refusal to Renew)**

- a) When an agency or person seeking renewal of accreditation or approval remains deficient with applicable standards, ten (10) business days before expiration of accreditation or approval, CEAS notifies the agency or person in writing to inform them they are at risk of Refusal to Renew. CEAS also notifies the agency or person that they must begin to prepare to implement case transfer plans in the event of a Refusal to Renew.
- b) If the agency or person's compliance remains deficient as of the date of expiration of accreditation or approval, CEAS may impose Refusal to Renew.
- c) When CEAS Refuses to Renew an agency or person's accreditation or approval and does not withdraw the adverse action based on findings that the decision was made in error, the agency or person may reapply for accreditation or approval. Before doing so, the agency or person must request and obtain permission from CEAS to make a new application. CEAS only grants such permission if the agency or person demonstrates that the specific area(s) of deficiency that led to the Refusal to Renew have been corrected. If the agency or person is granted permission to reapply,

the agency or person may file an application with CEAS in accordance with the steps outlined in CEAS's Initial and Renewal of Accreditation and Approval Policy.

E. Recommendation for Debarment

When CEAS has evidence of an accredited agency or approved person demonstrating 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 children and families, pursuant to the requirements set forth in 22 CFR 96.85, CEAS may recommend to the Secretary to debar the agency or person. A debarment of an accredited agency or approved person will automatically result in the cancellation of accreditation or approval by the Secretary and CEAS will deny any pending request for renewal of accreditation or approval.

F. Reporting

- a) CEAS notifies the Department of State within two (2) business days of the following:
 - i. the Compliance Review Committee's (CRC) decision to impose an adverse action including the specific details of the decision.
 - ii. the CRC's decision to withdraw or terminate Suspension.
 - iii. the CRC's decision to withdraw a Cancellation or Refusal to Renew when such action was determined to be unwarranted based on error.
- b) In addition to the notifications above to the Department, in the event an adverse action changes the accreditation or approval status of an agency or person, CEAS notifies in writing the relevant state licensing authority.
- c) CEAS submits to the Department a report semi-annually that summarizes the preceding six-month period of all adverse actions taken.
 - i. CEAS submits the report within thirty (30) business days following the end of each six-month time period, unless the Department has granted CEAS an extension.

G. Public Information

Information maintained on the CEAS website includes the legal name for each accredited agency or approved person, any adverse actions that result in a change in accreditation or approval status, the date the adverse action was imposed and date the adverse action is terminated. The CEAS website provides instructions for the public to request information regarding the basis for the adverse action. CEAS makes reasonable efforts to update the website information regarding adverse actions for each agency or person at the time the adverse action is imposed or changed; however, CEAS, at a minimum, posts this information on a quarterly basis. CEAS only releases information as authorized by State and Federal guidelines and in accordance with the scope and authority of an accrediting entity as outlined in 22 CFR Part 96.