



Substantial Compliance System Effective July 1, 2020

1. What are the Rating Indicators and how do the evaluators assign ratings?

The Substantial Compliance System (SCS) uses a four-point rating system to guide the evaluators in determining the adoption service provider's degree of compliance with each standard. With prior approval from an accrediting entity (AE) or as indicated by a particular standard, an adoption service provider can be assigned a rating of "not applicable" for some standards.

Ratings

- 1 Full Compliance
- 2 Substantial Compliance
- 3 Partial Compliance
- 4 Non-Compliance
- NA Not Applicable

Evaluators determine an adoption service provider's degree of compliance by rating all sub-section standards using their professional judgment and expertise, with reference to established policies and procedures, and ensure that each rating has a written justification.

If the evaluators decide to assign a rating below the required rating to a sub-section, they will provide the adoption service provider a written explanation of the rating. For Mandatory Standards the ASP will have an opportunity to respond to all ratings of Substantial Compliance, Partial Compliance, or Non-Compliance following the site visit. For Critical Standards, the ASP will have an opportunity to respond to all ratings of Partial Compliance or Non-Compliance following the site visit. For Foundational Standards, the adoption service provider will have an opportunity to respond to all ratings of Non-Compliance following the site visit. The AE will take these responses into account before assigning a final rating.

Pursuant to 22 CFR 96.27(b), when considering an *initial* application for accreditation or approval, the accrediting entity may measure the capacity of the agency or person to achieve substantial compliance where evidence of actual performance is not yet available. In the context of an application to renew accreditation or approval, "the accrediting entity must, for the purposes of monitoring, renewal, enforcement, and reapplication after adverse action, consider the agency's or person's actual performance in deciding whether the agency or person is in substantial compliance...unless the accrediting entity determines that it is still necessary to measure capacity because adequate evidence of actual performance is not available."

Rating Indicators (Rating Guidance)

1 Full Compliance

Description: The relevant policies, procedures, and performance fully meet the standard as written and conform to the principles of The Hague Adoption Convention (the Convention). All elements or requirements are evident in performance with extremely rare or no exceptions. Exceptions in compliance do not affect, in any way, consistency with the aims of the Convention, the IAA, the UAA, the regulations, organizational performance, or quality of service.

2 Substantial Compliance

Description: Performance exhibits a high level of compliance with accreditation standards. The majority of the standard's requirements are met, but one or more factors need clarification or augmentation. Policies and procedures have sufficient detail, are consistently applied, and personnel are adequately informed of policies and procedures. Evaluators are able to verify performance is in compliance with the standard and/or the organization can describe how it meets the standard. Any minor inconsistencies and underdeveloped policies or performance noted do not jeopardize persons served, overall performance, or consistency with the aims of the Convention, the IAA, the UAA, or the regulations in any way.

3 Partial Compliance

Description: A significant aspect of the organization's operations or service delivery deviates from the standard's requirements or from written material, or capacity is at a basic level. Policies or procedures lack sufficient detail and/or are not consistently applied; personnel are inadequately informed of policies and procedures. Evaluators are unable to verify consistent performance in compliance with the standard and/or the organization can only anecdotally describe how it meets the standard. Performance, as is, may compromise care of persons served, imperil organizational functioning, or be inconsistent with the aims of the Convention, the IAA, the UAA, or the regulations.

4 Non-compliance

Description: Any standard for which an ASP does not receive the required rating described above (1, 2 or 3) will be rated as non-compliant.

2. Which value (weight) is assigned to each standard?

All of the intercountry adoption standards are important to the operation of a well-functioning adoption program and adoption service providers must strive to comply with them. However, some standards have a higher weight assigned to them, than others, and failure to comply with certain standards reflects a fundamental weakness in operations or inconsistency with the principles of the Convention. All sub-sections have been designated as Mandatory, Critical, or Foundational Standards. For a complete list of weights associated with the accreditation standards, see Appendix A.

Mandatory Standards:

Mandatory standards represent practices that are essential to fulfillment of the aims of the Convention, the IAA, the UAA, and the regulations, and have the greatest impact in

preventing risks to children and families. ‘Mandatory’ is the highest weight assigned to regulation standards. An ASP must have a performance rating of full compliance on all Mandatory standards to receive accreditation/approval or renewal of accreditation/ approval.

Critical Standards:

Critical Standards represent practices that have a significant impact on fulfillment of the aims of the Convention, the IAA, the UAA, and the regulations. ‘Critical’ is a high weight assigned to regulation standards. A majority of the accreditation standards have a weight of Critical. An ASP must have a performance rating of Full or Substantial Compliance on all Critical Standards to receive accreditation/approval or renewal of accreditation/ approval.

Foundational Standards:

Foundational Standards are important to the operation of a well-functioning adoption program. They derive from and support compliance with the Convention, the IAA, the UAA, and the regulations. ‘Foundational’ is a weight below that of Mandatory and Critical. An ASP must have a performance rating of partial compliance or higher on all Foundational Standards to receive accreditation/approval or renewal of accreditation/approval

Each of the standards has been assigned a weighting which has been approved by the Department of State as follows:

Mandatory Standards: Standards that are in the mandatory category are: 96.30 (a), 96.30 (b), 96.30 (c), 96.30 (d), 96.31 (a), 96.31 (b), 96.33 (b), 96.33 (c), 96.34 (a), 96.34 (b), 96.34 (c), 96.35 (a), 96.35 (b), 96.35 (c), 96.35 (d), 96.36 (a), 96.36 (b), 96.39 (e), 96.42 (e), 96.49 (j) and 96.53 (c)

Critical Standards: Standards that are in the critical category are: 96.32 (a), 96.32 (b), 96.32 (c), 96.32 (d), 96.32 (e), 96.33 (a), 96.33 (d), 96.33 (e), 96.33 (f), 96.33 (g), 96.33 (h), 96.33 (i), 96.34 (d), 96.34 (e), 96.34 (f), 96.35 (e), 96.37 (a), 96.37 (b), 96.37 (c), 96.37 (d), 96.37 (e), 96.37 (f), 96.37 (g), 96.38 (a), 96.38 (b), 96.38 (c), 96.39 (a), 96.39 (c), 96.39 (d), 96.39 (f), 96.40 (a), 96.40 (b), 96.40 (c), 96.40 (d), 96.40 (e), 96.40 (f), 96.40 (g), 96.40 (h), 96.41 (a), 96.41 (b), 96.41 (c), 96.41 (d), 96.41 (e), 96.41 (f), 96.41 (g), 96.41 (h), 96.42 (a), 96.42 (b), 96.42 (c), 96.42 (d), 96.43 (a), 96.44 (a), 96.44 (b), 96.45 (a), 96.45 (b), 96.46 (a), 96.46 (b), 96.46 (c), 96.47 (a), 96.47 (b), 96.47 (c), 96.47 (d), 96.48(a), 96.48 (b), 96.48 (c), 96.48 (e), 96.48 (f), 96.48 (g), 96.48 (h), 96.49 (a), 96.49 (b), 96.49 (c), 96.49 (d), 96.49 (e), 96.49 (f), 96.49 (g), 96.49 (h), 96.49 (i), 96.49 (k), 96.50 (a), 96.50 (b), 96.50 (c), 96.50 (d), 96.50 (e), 96.50 (f), 96.50 (g), 96.50 (h), 96.51 (a), 96.51 (b), 96.51 (c), 96.51 (d), 96.52 (a), 96.52 (b), 96.52 (c), 96.52 (e), 96.53 (a), 96.53 (b), 96.53 (d), 96.53 (e), 96.54 (a), 96.54 (b), 96.54 (c), 96.54 (d), 96.54 (f), 96.54 (g), 96.54 (h), 96.54 (j), 96.54 (k), 96.55 (a), 96.55 (b), 96.55 (d), 96.55 (e) and 96.55 (f)

Foundational Standards: Standards that are in the foundational category are: 96.38 (d), 96.39 (b), 96.43 (b), 96.43 (c), 96.43 (d), 96.48 (d), 96.52 (d), 96.54 (e), 96.54 (i), and 96.55 (c)

3. What ratings do we need to be accredited or approved? What does Substantial Compliance mean?

Substantial Compliance with the Accreditation Standards as a Whole: The accreditation regulations require agencies and persons to demonstrate they are in substantial compliance with the standards in 22 CFR Part 96, subpart F. In the accreditation and renewal processes, substantial compliance is the term we apply when an ASP achieves at least the minimum rating assigned to each regulation standard. It represents the level of compliance with regulation standards as a whole needed to satisfy the requirements for accreditation/approval or renewal of accreditation/approval.

In order to be accredited or approved, or to have accreditation or approval renewed, the adoption service provider must:

- receive ratings of Full Compliance on 100 percent of all applicable Mandatory Standards;
- receive ratings of Full or Substantial Compliance on 100 percent of all applicable Critical Standards; and
- receive ratings of Partial Compliance or higher on 100 percent of all applicable Foundational Standards

4. How does the Substantial Compliance System relate to monitoring and oversight?

AEs are responsible for continuous monitoring of ASP compliance with applicable standards. Following accreditation or renewal, if an ASP no longer meets the requirements for a full compliance rating of a Mandatory Standard, or a substantial compliance rating for a Critical Standard, or a partial compliance rating for a Foundational Standard, it falls out of substantial compliance.