

DEPARTMENT OF CHILDREN AND FAMILY SERVICES


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POLICY GUIDE 2008.02

MEXICAN CONSULATE NOTIFICATION OF MEXICAN OR MEXICAN AMERICAN MINORS IN THE CUSTODY/GUARDIANSHIP OF THE DEPARTMENT

RELEASE DATE: May 16, 2008

TO: Rules and Procedures Bookholders and Child Protective and Child Welfare Staff

FROM: Erwin McEwen 

EFFECTIVE DATE: Immediately

I. PURPOSE

This Policy Guide replaces Policy Guide 2004.02, Mexican Consulate Notification of Mexican or Mexican American minors in the Custody of the Department. The Memorandum of Understanding between the State of Illinois, Department of Children and Family Services and the Consulate General of Mexico in Chicago, provides for early identification of Mexican or Mexican American minors taken into protective custody by the Department. The child welfare practice issues inherent in the Memorandum of Understanding are directed toward ensuring that the needs of Mexican or Mexican American minors are met when their families are temporarily or permanently unavailable. This revised policy addresses procedures that will facilitate the early coordination of legal and social services to children and their relatives that may be necessary to achieve permanency for the child, including providing the least restrictive placement and supportive services to maintain family ties, ensure appropriate visitation and maintain the child's ethnic, religious and cultural identity.

The Memorandum of Understanding between the Department of Children and Family Services and the Consulate General of Mexico requires DCFS to notify the Mexican Consulate when a child is determined to be of Mexican ancestry. In order to comply with this requirement DCFS child protection and child welfare and POS workers are to notify the Office of Latino Services which is responsible for notification to the Mexican Consulate.

II. PRIMARY USERS

The primary users of this Policy Guide are child protective and child welfare staff of the Department and Purchase of Service (POS) agencies.



III. BACKGROUND INFORMATION

The Consular Convention between the United States of America and the United Mexican States (Bilateral Convention) and the Vienna Convention on Consular Relations (Vienna Convention) provide for consular notification and access in cases where foreign nationals are involved in legal proceedings. These treaties establish the right of representatives or agents of any embassy or consulate of a foreign government to freely communicate with, and have access to, its nationals without interference from the host state.

The Department recognizes the importance of early identification of Mexican or Mexican American minors taken into protective custody in order to protect the fundamental rights of Mexican Nationals and, to the extent possible, provide all of the protections afforded to them by the Vienna Convention, the Bilateral Convention and all other applicable treaties and laws.

IV. DEFINITIONS

“Mexican” means any person who is a national of Mexico, regardless of immigration status in the United States. For consular notification purposes, a minor reported as born in Mexico will be assumed to be a Mexican national.

“Mexican minor” means any unmarried person who is under the age of eighteen and was born in Mexico.

“Mexican American minor” means any unmarried person who is under the age of eighteen, was born in the United States, and who is eligible for Mexican nationality as the biological child of at least one Mexican national.

“Mexican custodian” means the non-parental caretaker of a Mexican minor, who has been entrusted by a parent(s) with the day-to-day care of the minor for any period of time.

“DIF” means the Agency For Integral Family Development. This is the agency in Mexico charged with ensuring the welfare of minors.

V. DETERMINATION OF MEXICAN LINEAGE

Child protection workers are required to establish ancestry of every child taken into protective custody. At the beginning of an investigation, child protection workers will distribute the pamphlet **CFS 1050-26, Guide for Parents who are Mexican Nationals**, to all Hispanic subjects of reports. In addition, the Memorandum of Understanding between the Illinois Department of Children and Family Services and the Consulate General of Mexico requires the Department to notify the Mexican Consulate in writing within ten working days of the decision to take protective custody of a Mexican or Mexican American minor or at any time one of the following occurs:

- A child for whom the Department is legally responsible (including protective custody) is identified as having Mexican ancestry.

- A parent or custodian of a Mexican or Mexican American minor requests that the consulate be notified.
- The Department learns that a non-custodial parent resides in Mexico.

VI. RIGHTS OF CHILDREN AND FAMILIES OF MEXICAN ANCESTRY

Each month, the Office of Latino Services is notified of every case that has been opened for a Hispanic child. Children who are determined to be of Mexican ancestry and who are age appropriate, and their parents or custodians shall be advised that:

- They have the right to freely communicate with consular officers of their country.
- The Mexican Consular Representatives may interview Mexican or Mexican American minors in the custody of the Department.
- The Mexican Consulate can receive specific information, otherwise confidential regarding the reason protective custody of the Mexican minor was taken.
- The Mexican Consulate can assist the Mexican child, parents or custodians in legal proceedings.

VII. INFORMATION PROVIDED TO THE MEXICAN CONSULATE

The DCFS Office of Latino Services is responsible for the notification to the Mexican Consulate and to the Guardianship Administrator that a Mexican or Mexican American minor is in the custody/guardianship of the Department. The initial notification provided to the Mexican Consulate by the Office of Latino Services shall include the name of the minor; the minor's date of birth, if known; the names, address and telephone number of the parents or custodians, if known; the consent of the parents or custodian to the disclosure; and the name and telephone number of the assigned Department caseworker and the caseworker's supervisor. Workers are to complete the **CFS 1000-6, Notification to Mexican Consulate** (attached) and submit it to the Office of Latino Services as indicated in section XI of this Policy Guide.

VIII. CONSULATE ACCESS TO MEXICAN OR MEXICAN AMERICAN MINORS IN THE CUSTODY OF THE DEPARTMENT

Although Consular Representatives have the right to interview Mexican minors in the custody of the Department, they must first obtain the approval of the Office of the Guardianship Administrator to interview Department wards who are of Mexican American ancestry. All interview requests must be submitted to the Guardianship Administrator or designee.

IX. SPECIAL IMMIGRANT JUVENILE STATUS FOR MEXICAN MINORS

The Mexican Consulate will assist the Department in obtaining the necessary documentation from Mexico for Mexican minors in the Department's custody who are eligible for Special Immigrant Juvenile status.

X. ASSISTANCE PROVIDED BY MEXICAN CONSULATE REGARDING DIF

The Mexican Consulate can assist DCFS and POS caseworkers in obtaining appropriate home studies of families in Mexico who may be resources for these Mexican minors by contacting the DIF. The Mexican Consulate will also ensure that the DIF provides appropriate and necessary services to Mexican minors for whom the Department is legally responsible when they are placed in Mexico, including having monitoring reports forwarded to DCFS and POS caseworkers.

XI. INSTRUCTIONS TO DCFS AND POS STAFF

A. Identification of Children of Mexican Ancestry

DCFS and POS child protection workers and permanency workers are required to notify the Office of Latino Services within five working days of:

- Taking protective custody of a Mexican or Mexican American minor;
- Identifying a child for whom the Department is legally responsible as having Mexican ancestry;
- Receiving a request from the parent or custodian of a Mexican or Mexican American minor to notify the consulate; or
- Learning that a non-custodial parent lives in Mexico.

B. Required Consent to Release Information

In order for the Department to notify the Mexican Consulate of a child(ren) of Mexican ancestry, the child protective services worker or the permanency worker must obtain the written consent of the parent(s) or custodians using the **CFS 600-3 Consent for the Release of Information**. If the parent(s) or custodian(s) refuse to sign the consent, the worker shall document the refusal in the space provided on the **CFS 1000-6**. While information cannot be released to the Mexican Consulate without the consent of the parent or custodian, workers are still required to submit the **CFS 1000-6** to the Office of Latino Services.

C. Notification to the Office of Latino Services

When a child is determined to be of Mexican ancestry, the DCFS or POS worker is required to:

1. Complete the **CFS 1000-6**;
2. Obtain the written consent of the parent or custodian to notify the Mexican Consulate by completing the **CFS 600-3**; and
3. Submit the **CFS 1000-6** and **CFS 600-3** (when signed) by fax to; Chief, DCFS Office of Latino Services at (312) 808-5134.

The Office of Latino Services is responsible for informing the Mexican Consulate of Mexican or Mexican American minors protected by the Memorandum of Understanding between the Illinois Department of Children and Family Services and the Consulate General of Mexico.

XII. RELATED POLICIES

- A. Procedures 327, Appendix F Immigration/Legalization Services for Foreign-Born DCFS Wards** describes the application process for attaining legal (citizenship) status for a child born outside of the United States. **Attachment 1, Immigration Services Alert**, informs DCFS and POS workers of the requirement to determine a child's legal (citizenship) status and explains the benefits and services that may be unavailable to a child who does not become a legal permanent resident of the United States. **Attachment 2, Emergency Care Plan for Children with Undocumented Caregivers**, describes the DCFS or POS worker's responsibility to develop an emergency care plan for children in the event that their caregiver is detained due to his or her undocumented legal status in the United States. Attachment 2 also includes a list of resources and advocates for immigrants and the consulates in Illinois.
- B. Policy Guide 2008.01 Licensing, Payment and Placement of Children with Undocumented Relatives** provides DCFS and POS staff with step-by-step instructions on the placement of children with undocumented relatives; the procedures that must be followed for the caregiver to receive reimbursement for the child's care and on the single change in the licensing application when the caregiver's legal status is undocumented. Policy Guide 2008.01 is filed behind Procedures 301.60.

XIII. QUESTIONS

Questions concerning this Policy Guide may be directed to the Office of Child and Family Policy at 217/524-1983 or e-mail through Outlook at OCFP Mailbox or cfpolicy@idcfs.state.il.us for non-Outlook users.

XIV. ATTACHMENT

CFS 1000-6, Notification to Mexican Consulate (Rev. 04/2008)

XV. FILING INSTRUCTIONS

Child Protective Services Workers shall remove Policy Guide 2004.02 found behind Section 300.80 of Procedures 300 and file the attached Policy Guide in its place. Child welfare staff shall remove Policy Guide 2004.02 found behind Section 301.60 of Procedures 301 and file the attached Policy Guide in its place.

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State of Illinois
Department of Children and Family Services
Office of Latino Services

Notification to Mexican Consulate

In accordance with the Memorandum of Understanding between the State of Illinois, Department of Children & Family Services (DCFS), and the Consulate General of Mexico in Chicago, the Department is required to notify the Mexican Consulate when children for whom the Department has guardianship are determined to be Mexican (born in Mexico) or Mexican American (eligible for Mexican nationality as the biological child of a Mexican national). Child Protective Services Workers and DCFS and POS Permanency Workers are required to complete this form and submit it to the Chief of the DCFS Office of Latino Services within five working days of identifying a child or youth who is Mexican or Mexican American minor.

CHILD INFORMATION

Last Name _____ **First Name** _____ **Case ID** _____

Date of Birth _____ Place of Birth _____

Date taken into Custody _____

Last Name _____ **First Name** _____ **Case ID** _____

Date of Birth _____ Place of Birth _____

Date taken into Custody _____

Last Name _____ **First Name** _____ **Case ID** _____

Date of Birth _____ Place of Birth _____

Date taken into Custody _____

(Add additional pages if needed)

PARENT INFORMATION

Mother's Name _____ Mother's Birth Place _____

Mother's Address (only if a Mexican National) _____

Father's Name _____ Father's Birth Place _____

Father's Address (only if a Mexican National) _____

CASEWORKER / AGENCY INFORMATION

Caseworker Name _____ Agency Name _____

Address _____ City, State, Zip _____

Agency Phone # (____) _____ Supervisor's Name _____

Date submitted to Office of Latino Services _____

DCFS and POS workers must submit this form by fax to the attention of; Chief, DCFS Office of Latino Services, at (312) 808-5134, along with the signed CFS 600-3, Consent to Release Information. If the parent or custodian refused to sign the CFS 600-3, the worker must indicate so with a checkmark in the space provided below.

The parent / custodian refused to sign the CFS 600-3 Consent to Release Information.