

**Office of Child Welfare Programs**

Lois Day, Director of Child Welfare Programs

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**Number:** CW-IM-14-014

**Issue date:** 8/15/14

**Topic:** Agency-wide Policy

**Subject:** Memorandum of Understanding between the Consulates of Mexico and the Department of Human Services (DHS)

**Applies to (check all that apply):**

- |   |   |
|---|---|
| <input type="checkbox"/> All DHS employees                  | <input type="checkbox"/> County Mental Health Directors                       |
| <input type="checkbox"/> Area Agencies on Aging             | <input type="checkbox"/> Health Services                                      |
| <input type="checkbox"/> Aging and People with Disabilities | <input type="checkbox"/> Office of Developmental Disabilities Services (ODDS) |
| <input checked="" type="checkbox"/> Child Welfare           | <input type="checkbox"/> Other ( <i>please specify</i> ):                     |
| <input type="checkbox"/> County DD Program Managers         |   |

**MESSAGE:**

On June 17, 2014, DHS Director, Erinn Kelley-Siel signed a Memorandum of Understanding between the Department of Human Services and Consulates of Mexico in Portland, Oregon and Boise, Idaho regarding Consular functions in custody proceedings involving Mexican minors. This MOU assures the fulfillment of the rights set forth in the Consular Convention between the United States, and Mexico and the Vienna Convention on Consular Relations. Both the Department and the Consulates have individual obligations. It is important that all are aware what those obligations are when there is Department custody of a Mexican minor.

**The definition of a Mexican minor is any unmarried individual who is under the age of 18 and:**

- Was born in Mexico;
- Two or more countries confer their nationality to the individual and Mexico is one of those countries or;
- Is the biological child of a Mexican national?

**The Department must take the following steps when a Mexican minor enters DHS custody:**

1. Make every effort to determine the nationality of the minor at the time the child comes into the physical custody of DHS. If believed to have been born in

Mexico, obtain a certified copy of the Mexican birth certificate. The Consulate shall assist DHS, whenever possible, in obtaining the birth certificate.

2. If the Mexican minor is a Mexican National and not a US citizen, by law, Consular notification must occur. If the Mexican minor is a US citizen, parental permission is required in order to give notice to the Mexican Consulate. If parental permission is withheld or a parent is unavailable to give consent, the branch has the option of seeking a court order allowing notification. The most common reason for seeking a court order will be if one or more of the parents reside in Mexico. This allows the Consulate to assist the Department in locating the parent(s) for notification of appearances, for case planning purposes, and/or procuring a home study.
3. Use the [State of Oregon Consulate Notification](#) form for your Consulate notification.
4. If Spanish is the first language of the Mexican minor's parent or custodian, provide them with an English and Spanish copy of the dependency proceeding (petition) before the Juvenile Court and with the address and telephone number of the correspondent Consulate.
5. When the Consulate makes a request, provide additional specific information regarding the juvenile court proceedings involving Mexican minors. This information is provided to the extent that disclosure is in the best interests of the child and consistent with the laws of the state.
6. When the Consulate makes a request, allow and arrange an interview with the Mexican minor.
7. Provide the Consulate with updates regarding the case of the Mexican minor particularly when their case plan changes.
8. Acknowledge that the Consulates may contact, at any time, DHS advocate offices, CASA workers, or an AAG regarding cases where Mexican minors are in the custody of DHS.

**The Mexican Consulate's office must take the following steps when a Mexican minor enters foster care:**

1. When the Department makes the request, assist the Department in obtaining the necessary documentation from Mexico to complete a Special Immigrant Juvenile Status application.
2. The Consulates shall work jointly with the Department in locating persons who reside in Mexico and are required to appear before an Oregon court in order to give timely notification of their appearances. The Consulates shall also work jointly with the Department in locating other important persons living in Mexico such as relatives.
3. When the Department makes the request, assist the Department in procuring an appropriate home study of parents or potential relative adoptive resources living in Mexico.
4. When a Mexican minor is being placed in Mexico with parent(s) or an approved

relative adoptive applicant, ensure the necessary coordination measures with the DIF office (Mexican child protection agency) occurs.

5. The Consulates shall refrain from re-disclosure of any confidential information provided by DHS regarding Mexican minors or their parents or siblings.

*If you have any questions about this information, contact:*

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|--------------------|--|-------------|--|
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