

**PROGRAM MEMORANDUM**

Date: February 6, 2006

Program Memo: Title 390, Protection and Safety #1-2006

From: Todd Reckling, Protection and Safety Administrator
Office of Protection and Safety

Signed by _____
Nancy Montanez, Director

To: Holders of Title 390

**Re: Memorandum of Agreement regarding Mexican National Youth
and Multiple Nationality Youth**

Effective Date: Immediately

Duration: Until regulation is revised.

The Department has entered into a Memorandum of Understanding with the Consulate of Mexico concerning notification to and access by the Consulate concerning children in HHS or HHS-OJS custody who are Mexican National Minors or Multiple Nationality Minors. Mexican National Minors are defined as “any unmarried person who is under the age of eighteen and was born in Mexico”. Multiple Nationality Minors are defined as “any unmarried person who is under the age of eighteen and is a national of two or more countries, one of which is Mexico.”

The purpose of this memorandum is to provide direction to Protection and Safety Workers regarding this agreement and the process to carry out the agreement. Questions regarding this memorandum or the policy/guidebook may be directed to Chris Hanus at chris.hanus@hss.ne.gov or 402-471-9308.

Mexican National Minors and Multiple National Minors

Policy and Guidebook

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Purpose

The Memorandum of Agreement between the Department of Health and Human Services (Department) and The Ministry of Foreign Affairs of the United Mexican States (Consulate) was developed to protect the Mexican minor as a fundamental element of Mexican communities throughout the United States, in particular the State of Nebraska. The Department and Consulate recognize that the Mexican minor is essential to the maintenance of Mexican culture, tradition and values. Therefore the Department in conjunction with the Consulate have agreed upon a method of early identification of Mexican Minors and their families in order to provide services which assure all the protections afforded by the Vienna Convention, the Bilateral Convention and all other applicable treaties and laws.

1. Definitions

“Dif” means the Agency for Integral Family Development, the agency in Mexico charged with ensuring the welfare of Minors.

Mexican National Minor means an unmarried person who is under the age of eighteen and was born in Mexico.

Multiple Nationality Minor means an unmarried person under the age of eighteen and born in Mexico and is also a citizen of another country.

Special Immigrant Juvenile Status(SIJS) means an immigrant classification that makes a juvenile eligible to later apply for permanent resident status or a “green card.”

2. When should the Mexican Consulate be notified

The Protection and Safety Worker must notify the Mexican Consulate in writing:

- A. When the Department identifies a Mexican National Minor in its custody;
- B. When a parent or custodian of a Mexican National Minor or Multiple Nationality Minor has requested that the consulate be notified; and
- C. When the Department learns that a non-custodial parent of a child in its custody resides in Mexico

3. Protection and Safety Worker Responsibilities

- A. Determine if a child who is a ward of HHS or HHS-OJS is a Mexican National Minor or Multiple Nationality Minor. The Protection and Safety Worker may be made aware that a child is or may be a Mexican National Minor or Multiple Nationality Minor based upon:
 1. A Birth Certificate, Baptismal Certificate or other documentation;
 2. A statement of the youth ;or
 3. A statement of a parent, caretaker or other family member

When a Protection and Safety Worker believes there is a possibility that the youth in custody is a Mexican National Minor or Multiple Nationality Minor, the Protection and Safety Worker will complete the Mexican Consulate Notification

Form and forward to the Mexican Consulate. (a copy of the form is attached at the end of this section).

The Protection and Safety Worker must cooperate with any request from the Mexican Consulate for further specific information in order to determine the nationality of the youth and must provide copies of any requested documentation requested for this purpose.

The Protection and Safety Worker will, with assistance from the Mexican Consulate, obtain a birth certificate from Mexico for youth who are Mexican Nationals.

B. Locate Family Members in Mexico and Obtain Home Studies

The Protection and Safety Worker and Mexican Consulate will work together to locate individuals who reside in Mexico and must appear in a Nebraska court regarding cases of minors, in order to notify such individuals of court appearances.

Upon notification to the Mexican Consulate of custody of a Mexican National or Multiple Nationality Minor, the Mexican Consulate may contact the Agency for Integral Family Development (also referred to as "DIF", the agency in Mexico charged ensuring the welfare of minors) in order to obtain the appropriate home studies of potential families of the child residing in Mexico. The Consulate will work to obtain DIF's cooperation to ensure the child's welfare and to ensure provision of services as necessary. The Consulate will also obtain copies of information regarding family members, home studies or any monitoring reports prepared by DIF concerning the welfare of the child following placement of a child with family in Mexico. The Consulate will forward this information directly to the child's Protection and Safety Worker.

C. Provide Required Reference Guide to Mexican National Minor or Multiple Nationality Minor and Parents

The Protection and Safety Worker will provide the "Reference Guide for Parents and Foster Parents" to the youth's family or custodian. The Guide, available in English and Spanish, was developed by the Center for Children, Families and the Law and is available through them (UNL Center for Children Families and the Law, 121 S. 13th. St., Suite 302, Lincoln, NE 68558-0227; phone 402-472-3479; fax 402-472-8412). It explains the juvenile court process and the rights of the minor child and his or her parents or custodians.

4. Interviews between the Mexican Consulate and a Youth

The Mexican Consulate will request approval for a personal interview with the youth from the Administrator of Protection and Safety or his/her designee. If approval is granted the Protection and Safety Worker will make arrangements with the youth, other related persons and the Mexican Consulate for the personal interview. The Protection and Safety Worker or other representative for the Department of Health and Human Services will also attend the interview.

5. Special Immigrant Juvenile Status (SIJS)

Special Immigrant Juvenile Status (SIJS) is an immigrant classification that makes a juvenile eligible to later apply for permanent resident status, or a “green card”. If SIJ status is granted, the juvenile receives significant protection from deportation. The juvenile may also work here legally, qualify for in-state tuition at state colleges and, in five years, apply for US citizenship.

In order to qualify for SIJ status, a US juvenile court must have declared the juvenile as “court dependent” or legally committed the juvenile to a state agency. The court must also find the juvenile to be eligible for “long term foster care” which is the equivalent of a finding that parental reunification is not possible. Last, the court must make a finding that it would not be in the juvenile’s best interest to return to the country of origin.

In cases where a Mexican National Minor or Multiple Nationality Minor has been placed as a ward of the State of Nebraska and may be eligible for Special Immigrant Juvenile Status (SIJS), the Mexican Consulate will assist the Department in obtaining the necessary documentation from Mexico for the SIJS Application.

6. **N-FOCUS Data Entry:** Once a determination is made that the youth is a Mexican National Minor or Multiple Nationality Minor, the country of birth and any other validated information should be entered on N-FOCUS if it not already entered.



General Counsel of Mexico
3552 Dodge Street
Omaha Nebraska 68131

Mexican Consulate Notification Form

The following youth has been determined to be or is believed to be a Mexican National Minor or Multiple Nationality Minor in protective custody with the Nebraska Department of Health and Human Services (HHS).

Youth Name _____

Birthdate _____

Bio Parent or caretaker youth was residing with prior to HHS custody

Casemanager
Name _____

Casemanager Phone _____

Casemanager
Address _____

City _____ State _____ Zip _____

This youth may qualify as:

_____ A Mexican National Minor (any unmarried person who is under the age of eighteen and was born in Mexico).

_____ A Multiple Nationality Minor (any unmarried person who is under the age of eighteen, that is a national of two or more countries, one of which is Mexico).

Documentation:

_____ Birth Certificate (copy attached)

_____ Baptismal Certificate (copy attached)

_____ Bio-Parent(s) or Caretaker(s) statement (identify person or persons making statement)

_____ Other (please explain):

Date form completed _____

Prepared by _____