

19. Notifications

Procedure

The CPS worker must:

- Unless DHS determines that disclosure is not permitted under ORS 419B.035, notify the reporter, if the reporter provided the department with contact information, whether contact was made, whether the department determined that child abuse or neglect occurred, and whether services will be provided.
- Notify the child's parents, including a non-custodial legal parent, and caregivers of all CPS assessment dispositions (unfounded, unable to determine, or founded).
- Each Child Welfare office will provide perpetrators written notification of founded dispositions. This written notification must include information about the founded disposition review process as outlined in Oregon Administrative Rule. If the notification could make a child or adult victim unsafe, a CPS supervisor may authorize an exception to the requirement to provide notification based on documentation that supports this conclusion.

Documentation

The CPS worker must document the above notifications prior to completing the CPS assessment.

Consular Notifications – Vienna Convention

Overview

When an action for appointment of a guardian or trustee is filed on behalf of a child that is a foreign national, the Vienna Convention on Consular Relations (1963), a multi-lateral international treaty, requires that notification of the action be given to the consulate for the child's country. Oregon law implements the treaty by requiring notification of the following proceedings to the consulate of the child's country when the child involved is a foreign national:

- A petition or motion to implement under ORS 109.119 seeking custody of or guardianship of a child.
- A petition to appoint a fiduciary for the child or the entry of a protective order under ORS chapter 125.

Chapter II - Screening and Assessment

- A petition alleging that a child is within the jurisdiction of the juvenile court under ORS chapter 419B. –AND–
- A motion to implement a plan other than return to parent under ORS Chapter 419B for a ward of the juvenile court.

Whenever DHS files a petition alleging that a child who is a foreign national is within the jurisdiction of the juvenile court, DHS is required to serve a copy of the petition on the consulate for the child's country and document that service. This is required even if the parents of the child do not want DHS to notify the consulate.

Caseworker's Responsibilities

Determine the citizenship of the child and the child's parent

When a child is placed into substitute care and a petition is filed, the caseworker must attempt to determine if the child is a United States citizen. To accomplish this, the caseworker should do the following:

- Ask the child's parents or relatives if the child is a United States citizen, if the child is a citizen of another country, or if the child is a citizen of both the United States and another country.
- Gather as much information about the child's nationality as possible from the child's parents and other relatives, including when and where the child was born, information about the location of the other family members, and last known addresses of the child, the child's parents, and family members.
- Use the form CF449, Relative Contact Information Memo <http://www.dhs.state.or.us/admin/forms> to identify parents and other relatives and document their contact information outside of the United States.

Based on the information obtained above, determine if the child is a United States citizen.

What if the child is not a United States citizen?

If you have reason to believe that the child is not a United States citizen and the child has been placed on a voluntary basis into substitute care, but DHS has not filed a petition alleging that the child is within the jurisdiction of the juvenile court, you should complete the following steps:

Notify the consulate of the child's country that the child has been placed into substitute care. This notification can be done via facsimile or letter (See Appendix 2.7 – Consular Notification via FAX).

Access the website for the Foreign Consular Offices in the United States: <http://www.state.gov/s/cpr/rls/fco/> to determine the facsimile number and address of the consulate office you need to notify and the title of the consular officer.

- Keep a copy of the notification in the DHS file. If faxing information to a consular office, keep the fax transmittal for your file as evidence of official notification. Also send a copy of the notification to the CAF Cultural Competency Coordinator in Central Office.
- If you have questions or need clarification on what the notification materials should include, contact the Cultural Competency Coordinator in Central Office, 503-945-5700.

If you determine that the child is not a United States citizen and DHS has filed a petition alleging that the child is within the jurisdiction of the juvenile court, you must complete the following steps:

- Serve a copy of the petition on the consulate of the child's country. Service may be made by hand delivery, by mail, or by facsimile.
- Document that service was completed. This may be done by having the consulate complete a written acknowledgement of service or by having the person that made the service complete a sworn affidavit explaining to whom a copy of the petition was served. The affidavit will need to be signed in the presence of a notary and notarized. If the document was served by facsimile, the printed confirmation of receipt of the message generated by the facsimile machine must be attached to the affidavit.
- Send the written acknowledgement or affidavit documenting that service was completed, with a copy of the petition attached, to the court for filing. A copy of this proof of service must also be sent to the legal parties to the juvenile court proceeding.
- Keep one copy of the proof of service in the DHS file and send a second copy of the proof of service to the CAF Cultural Competency Coordinator in Central Office.

Chapter II - Screening and Assessment

What if the child is a United States Citizen?

If you determine that the child is a United States citizen and is not a foreign national, then DHS is NOT legally required to provide notification to the consulate of the child's country. However, per an agreement between Oregon's Department of Human Services and the Consulate General of Mexico, of Portland, Oregon, DHS will provide notification to the Mexican Consulate's Office for children that are dual citizens of Mexico, or a biological minor of a Mexican National.

The notification process is slightly different. Prior to sending the notification form to the Mexican Consulate's office, we MUST have an Authorization to Share Information form (2099) signed by one of the parents allowing us to share information with the consulate on behalf of their child OR we must have a court's order allowing us to share information with the consular office for purposes of planning for the child.



Role of the Supervisor

- Review all cases in your unit which have children placed in substitute care to ensure that the appropriate consulate was notified if any of the children or children's parent(s) were born in another country or have citizenship in another country.
- Provide case consultation to caseworkers regarding consulate notification, if needed.



Forms and References

International Law

- Vienna Convention on Consular Affairs (1963), Articles 36 and 37

Oregon Revised Statutes

- ORS Ch. 109.119
- ORS Ch. 125 and 125.070 (guardianships and other protective proceedings)
- ORS Ch. 419B.851

DHS Policy

- I-E.1.1 – Working with Relatives Toward Placement of Children
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-e11.htm