

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES AGENCY, OF THE STATE OF CALIFORNIA OF
THE UNITED STATES OF AMERICA AND THE CONSULATE GENERAL OF
MEXICO IN SAN DIEGO, CALIFORNIA IN THE MATTER OF CUSTODY OF
MEXICAN MINORS**

The County of San Diego Health and Human Services Agency (HHSA), of the State of California of the United States of America, by and through its Child Welfare Services (HHSA-CWS), and the Consulate General of Mexico in San Diego, California (the Consulate), hereinafter referred to as “the Parties”.

CONSIDERING that County provides Child Welfare Services (CWS) investigations, case management, and referrals to resources, services and community partner-related services;

WHEREAS the Consulate provides comprehensive services to Mexican nationals residing in the United States of America;

CONSCIOUS of the importance of preserving, rehabilitating and reuniting families;

CONSIDERING the important duty of the Consulate in assisting Mexican nationals and protecting their interest;

BEARING IN MIND the international commitments set forth in the Consular Convention between the United States of America and the United Mexican States, (57 Stat. 800); Treaty Series 985, and the Vienna Convention on Consular Relations, (21 U.S.T 77, T.I.A.S. No. 6820); that provide for consular notification and access in those cases where foreign nationals are involved in legal proceedings;

RECOGNIZING their interest in working together in order to prevent on the neglect, abuse and exploitation of Mexican minors located in the United States of America and to provide them with a safe, stable and permanent home in a timely fashion;

DESIRING to improve the services provided to Mexican minors and their families;

Have agreed as follow:

**Article I
Objective**

This Memorandum of Understanding (“Memorandum”) has the objective to establish a collaborative framework between the Parties in order to increase the protection and

A
nm

promotion of the rights of Mexican minors who are in custody of HHSA-CWS and who reside in the County of San Diego.

Article II Definition of Mexican Minor

A Mexican minor is a single person, under the age of eighteen (18) and for the purposes of this Memorandum:

1. born in Mexico, or
2. two (2) or more countries confer their nationality on the individual and Mexico is one of those countries, and
3. is in the care and custody of the HHSA-CWS and/or the San Diego County Juvenile Court.

The HHSA-CWS social worker, is the assigned investigating worker and/or caseworker for children and families involved with HHSA-CWS.

The HHSA-CWS supervisor is to provide supervision, consultation, and training to the social worker providing protective services for children and families involved with HHSA-CWS.

Article III Scope of Cooperation

In order to achieve the objective of this Memorandum, the Parties will:

1. Join efforts to identify opportunities for rendering comprehensive support to Mexican minors who are under custody of HHSA-CWS.
2. Organize and coordinate workshops, courses and seminars for the Mexican community, to inform about the diverse legal and social resources available to assist families who have a dependency custody case with HHSA-CWS.

Handwritten initials: A and NM

**Article IV
Responsibilities of the Parties**

The HHSA-CWS will:

1. Determine the nationality of the child at the time the child is taken into protective custody, or as soon as practicable thereafter. The HHSA-CWS social worker will notify the HHSA-CWS ILO, without delay, via the Notification to Foreign Consulate/Embassy form (04-231), whenever it is learned that:
 - a. a Mexican minor is in protective custody; or
 - b. the Mexican parent of a Mexican minor is before the Juvenile Court for potential dependency action.
2. In cases where the nationality of a minor or parent is undetermined, but there is reason to believe they may be Mexican nationals, HHSA-CWS will contact the Consulate, and the Parties will jointly determine whether the case should be subject to the terms of this Memorandum.
3. The HHSA-CWS ILO will facilitate the communication and business regarding minor welfare issues with international and domestic institutions.

The HHSA-CWS ILO contact information is as follows:


Child Welfare Services
International Liaison Office
8965 Balboa Ave.
San Diego, CA 92123
CCWSILO.HHSA@sdcounty.ca.gov

4. Provide the parent or custodian of the Mexican minor with information on the consular services and assistance.
5. Ensure that due consideration be given to relative placements, including in Mexico, when out-of-home care is deemed necessary for the Mexican minor.
6. Upon request and subject to the requirements of Article VII (2), provide the Consulate with written updates regarding the status of the case and copies of court reports through the HHSA-CWSILO.



7. When considering placements of the Mexican minor in Mexico, provide copies of home evaluations completed by DIF at the request of the Consulate.
8. Assist with the correction of the minor's birth certificate, to include the name of the biological parents when they do not appear in it, in cases in which the reunification of the minor with their biological parent(s) is the identified goal.
9. In the case of parents who are in Mexico or detained by the authorities of the United States of America, offer assistance to the Juvenile Court and parties to facilitate the participation of parents in hearings via telephone, videoconference or any other available means of communication.
10. The translation of documents, if necessary, will be the responsibility of the HHSA-CWS, in accordance with Title VI of the Civil Rights Act of 1964.
11. Request and obtain, if applicable, the minor's US passport (s). The Consulate may issue the corresponding travel document, in accordance with the documentation obtained, that allows the minor to travel to Mexico.
12. Notify the Consulate, without delay, whenever:
 - a. The Mexican minor is in protective custody and/or a petition has been filed on behalf of said minor in Juvenile Court.
 - b. A parent(s) of the Mexican minor is a Mexican national.

For purposes of initial notification, the following information will be provided to the Consulate from the HHSA-CWS ILO:


- i. Name of the minor
 - ii. Date of birth of the minor
 - iii. Name of father, mother, guardian or custodian
 - iv. Name and telephone number of the caseworker or HHSA designee directly responsible for the case.
- 

13. Maintain open communication with the Consulate and will be available during working hours in case of emergencies.
14. Receive inquiries or requests for assistance regarding related matters active to other HHSA-CWS staff. In the process, facilitate good communication and conflict resolution when needed.
15. Assist social workers in relocating the minors in Mexico.
16. Assist with visits between dependent Mexican minors under custody of HHSA-CWS and their parents and relatives at the Consulate office located at the United States-Mexico port of entry in San Ysidro, California. All visits will be supervised by HHSA-CWS staff at all times.
17. Upon request from the Consulate, and subject to the requirements of Article VII (2), provide written updates regarding progress of a case and copies of related court reports.

The Consulate will:

1. Maintain open communication with the HHSA-CWS International Liaison Office (HHSA-CWS ILO) and be available during business hours and after business hours for emergencies. The Consulate's contact information is as follows:

1549 India Street
San Diego, CA 92101
(619) 231-3847 / (619)- 843-6399
Proteccion@consulmexsd.org
2. Comply with the confidentiality requirements as provided by the statutes of the State of California and the regulations of the Juvenile Court of the County of San Diego.
3. Assist in the search for parents and relatives, as necessary.
4. Provide HHSA-CWS with information about the services it provides, so that such information is made known to HHSA-CWS clients of Mexican nationality.
5. Provide support in conducting visits between minors and their parents and relatives at the Consulate office located at the US-Mexico port of



entry, in San Ysidro, California. HHSA-CWS staff will accompany all visitors, at all times.

6. Always have the right to interview a Mexican minor in the custody of the HHSA-CWS, in accordance with the provisions of the Vienna Convention on Consular Relations. To arrange an interview with a Mexican minor, the Consulate will contact the HHSA-CWS ILO, who will contact the social worker or supervisor assigned to the case.
7. Submit the respective prior application, in cases where it requires an interview with a Mexican minor, which may be done by phone or in person. However, in cases where an in-person interview is required, the Consulate must move to the place that is convenient for the minor and the HHSA-CWS staff.
8. When a Mexican minor is in the custody of the HHSA-CWS and is deemed eligible to obtain Special Immigrant Juvenile Status (SIJS), pursuant to the Immigration and Nationality Act, Sec. 101 (a) (27) (j) (ii), 8 USC Sec. 101 (a) (27) (J) (ii), or another form of immigration relief from the United States of America, the Consulate will help HHSA-CWS, where applicable, to obtain the necessary documentation from Mexico to support the application, as long as above is in the best interests of the minor.
9. The Consulate may arrange for a representative of the Sistema para el Desarrollo Integral de la Familia (DIF) or the Ministry of Foreign Affairs of the United Mexican States to witness the delivery of a minor at the corresponding port of entry and provide the HHSA-CWS with documented proof of this.
10. Assist the HHSA-CWS in the training of its social workers regarding the services that the Consulate offers to Mexican nationals, as well as on the practical application of this Memorandum.

Article V General Provisions

The Parties may change their administrative representative, notifying the other Party in writing. Any such change will become effective upon receipt of the aforementioned notification by the other Party to this Memorandum.



Article VI
Coordination and Supervision Mechanism

In order to achieve the objective of this Memorandum, each Party will designate a Coordinator, who will be in charge of formulating the procedure for referring cases and complying with the provisions of the Parties in this Memorandum. The Coordinators may meet periodically when they deem it convenient to discuss any aspect of the cases handled under this Memorandum.

The Consulate appoints its Consul for Protection and the HHSA-CWS appoints the HHSA-CWS ILO indicated in Article IV.

Article VII
Confidentiality

1. HHSA-CWS recognizes that the Consulate may need more detailed information on a particular case involving a Mexican minor. For more information than described above, the Consulate will contact the person designated by HHSA-CWS directly. The reports of the court and any other confidential information may only be shared with the Consulate and in accordance with the authorization of the court as established in the previous regulations. Confidential information will be disclosed by the Consulate only to the extent necessary to fulfill the purpose of this Memorandum. The information that can be provided to the Consulate without court approval is as follows: the names and dates of birth of the parents; the names and dates of birth of the minors; addresses and telephone numbers of the minors will be provided in consultation with their caregivers; and a brief and general summary of the parents' situation (for example, children removed due to substance abuse by parents and subsequent abandonment of children). Pursuant to San Diego County Superior Court Regulation 6.6.4 (19), if more detailed documents are desired, Consulate staff will need to submit Form JUV-004 (Petition to View Records and/or Request for Copies) and a Form JUV-237 (Stipulation Regarding Inspection, Copying and Non-Dissemination of Juvenile Records Without Court Order).

2. The Consulate recognizes and agrees to respect the legal confidentiality requirements established in the Welfare and Institutions Code, Section 827 and 10850 to 10853, the California Rule of Court 5.552, the San Diego County Superior Court Rule 6.6.4 (19), and the Child Abuse and Neglect Reporting Act of Section 11165 et seq. of the Penal Code that the HHSA-CWS must follow.



**Article VIII
Privileges and Immunities**

No provision of this Memorandum constitutes or should be construed as an implicit or explicit waiver of the rights, privileges and immunities that the Vienna Convention on Consular Relations confers on the Consulate, nor does it imply, under any circumstances, that there is or could exist an employment relationship between the Consulate and / or its employees and HHS-CWS and/or its staff who provide services to Mexicans under this Memorandum.

**Article IX
Dispute Resolution**

Any difference derived from the interpretation or application of this Memorandum will be resolved by the Parties by mutual agreement and in writing through negotiations in good faith.

**Article X
Final Provisions**

This Memorandum will be governed, interpreted and applied in accordance with the applicable laws of the United States of America, the State of California and the United Mexican States.

This Memorandum is for the exclusive use of the Parties. Any benefit for any third party is incidental and does not confer on any third party, rights over the execution of this Memorandum. Any attempt to enforce the provisions of this Memorandum by third parties is specifically prohibited.

This Memorandum supersedes any memorandum of understanding signed between the Parties.

Any of the Parties may propose modifications to this Memorandum, which may be formalized by written communications, specifying the date of entry into force of the modifications.

This Memorandum will enter into force from the date of its signature and will continue in force for a period of five (5) years, extendable by the Parties through written agreement.



Either Party may terminate this Memorandum, at any time, by written notice addressed to the other Party, two (2) months in advance.

Signed in San Diego, California, on December 9th of 2022 in two original copies in the Spanish and English languages, both texts being equally authentic.

**FOR THE COUNTY OF SAN DIEGO
HEALTH AND HUMAN SERVICES
AGENCY, OF THE STATE OF
CALIFORNIA OF THE UNITED
STATES**



**Nick Macchione, FACHE
Director of the
Human and Health Services Agency**

**FOR THE CONSULATE GENERAL
OF MEXICO IN SAN DIEGO,
CALIFORNIA**



**Carlos González Gutiérrez
Consul General**

