

<p style="text-align: center;">STATE OF ARIZONA JUVENILE DETENTION STANDARDS</p>	<p>Cross Reference: ACA: RULE: STATUTE: ACJA:</p>
<p>Section: I A 7 Administration/Management GENERAL ADMINISTRATION Juvenile Contact with Law Enforcement DRAFT</p>	<p style="text-align: center;">IMPLEMENTED</p>
<p><i>Objective:</i> <i>To ensure a juvenile's constitutional rights are protected while being detained in a secure care facility.</i></p>	

- 7.1** The director shall establish policies and procedures to govern law enforcement interviews of detained juveniles in a manner that balances the safeguarding of the constitutional rights of the juvenile and law enforcement authority to investigate crimes.
- 7.2** Detention personnel shall make reasonable efforts to schedule the time and length of interviews with law enforcement to minimize disruption in the juvenile's participation in program activities. ~~taking into consideration such factors as: programming, staffing, meal times and scheduled sleeping and visitation hours.~~ Detention personnel shall document the date, and start and end times of the law enforcement interview.
- 7.3** Detention personnel shall conduct periodic visual monitoring every fifteen minutes during the interview.
- 7.4** Law Enforcement shall not interview a juvenile on a pending petition if the juvenile has been appointed or retained an attorney, unless the attorney is present for the interview or provides documented consent for the interview to be conducted in their absence.
- 7.5** Law enforcement may interview a detained juvenile related to a new offense or investigation without an attorney's consent.
- 7.6** Upon admission, detention personnel shall advise the juvenile verbally and in writing, of their right to:
- a) Decline to speak with law enforcement officers, and;
 - b) End an interview at any time
- 7.7** A detained juvenile has the right to decline to be interviewed by law enforcement and may end an interview at any time. If a detained juvenile is being interviewed by law enforcement

and the juvenile requests an attorney or indicates that he or she wants to remain silent, the interview shall conclude.

- 7.8** Detention personnel shall provide the juvenile being interviewed with a method to notify detention personnel that he or she wishes to terminate the interview.
- 7.9** To obtain personal property evidence for a juvenile, law Enforcement must obtain a warrant or court order or written consent from the juvenile's court appointed or retained attorney and provide it to detention.
- 7.10** Law enforcement must obtain a warrant or court order and provide it to detention to obtain identifying physical characteristics of a juvenile, including but not limited to fingerprints, palm prints, footprints, measurements, handwriting, hand printing, sound of voice, blood samples, urine samples, comparative personal appearance or photographs.

DRAFT

Hon. Timothy Ryan, Juvenile Court Presiding Judge
Maricopa County Superior Court
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Phoenix, AZ 85003

Hon. Michael K. Jeanes
Maricopa County Clerk of Superior Court
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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)
Petition to Amend Rule 123,) Supreme Court
Rules of the Supreme Court of) No. R-_____
Arizona; Rules 19, 47, 75, & 86,)
Rules of Procedure for the)
Juvenile Court)
_____)

Under Rule 28 of the Rules of the Supreme Court, Maricopa County Superior Court Juvenile Court Presiding Judge Timothy Ryan and Clerk of the Court Michael K. Jeanes respectfully petition this court to adopt the attached amendments to the Rules of the Supreme Court and the Rules of Procedure for the Juvenile Court.

I. Background and Purpose of the Proposed Rule Amendments.

Juvenile Court proceedings include public hearings and records, such as delinquency, emancipation, and Title 14 guardianship cases as well as

proceedings with various levels of confidentiality, such as dependencies, relinquishments, adoptions, and Title 8 guardianships. Depending on the type of case, juvenile matters involve multiple parties, agencies, and individuals, including parents, children, attorneys, guardians ad litem, foster parents, probation officers, child safety workers, and advocates. The current court rules require additional clarity to guide the custodian of records in providing appropriate access for individuals to allow their participation in juvenile court cases while protecting confidential, restricted, and sealed information from inappropriate access or dissemination.

II. Contents of the Proposed Rule Amendments.

The proposed amendments give juvenile court participants, the clerk of court, and the superior court more detail on the kind of access individuals can expect to juvenile court matters based on their roles in the case or relative to the children in the case. To the extent possible, the clerks of court should provide direct access when appropriate and should refer requests that require judicial review to the court when appropriate. The proposed amendments provide more direction than is currently available in court rule.

III. Summary of Proposed Changes.

The definition of “public” in Supreme Court Rule 123(b)(16) captures the universe of court record users. The petitioners considered but declined to

amend this all-inclusive definition, opting to specify access in individual court rules.

Amendments proposed to Rule 123(d)(1) clarify that the rules apply to all juvenile records, provide more case type information differentiating public and non-public cases, and stylistically include language conforming to the changes proposed throughout this petition.

The amendment proposed to Rule 123(g)(1)(D)(i)(a) clarifies that the prohibition on remote access referenced in that subpart applies to all juvenile matters brought under A.R.S. Title 8.

Juvenile Rule 19's proposed amendment is a stylistic or technical correction from a file "marked" as confidential to more digitally-inclusive terminology of a file "maintained as" confidential. No substantive change is intended.

An expanded Juvenile Rule 47 is proposed to provide participants, clerks, and courts clearer direction on the most commonly requested access to records scenarios. In addition to stylistically conforming changes, the proposed rule adds language to address the records access of parties and former parties, foster parents, non-parties, children who later request access to their case information, and access to other case participants. Other participants include guardians ad litem, regulatory and enforcement

agencies, juvenile corrections, and foster care review boards. The amendment proposed to subpart (B) clarifies that a request to inspect court records in a case involving child abuse, abandonment or neglect that resulted in a fatality or near fatality is accomplished by filing a request with the court.

Juvenile Rules 75 and 86 are specific to adoption records. Like the existing rules, proposed Rule 75 points the court user to Rule 86 for the procedures on accessing adoption records. Proposed Rule 86 directs that an adoption petitioner, the petitioner's attorney, and the adoptee may obtain a copy of the order of adoption on request but all other adoption records requests require judicial review.

IV. Pre-petition Distribution and Comment.

The Maricopa County Superior Court and Clerk of Court only recently met to coordinate solutions to the most common records access requests in juvenile cases. Neither the courts nor the clerks had meetings scheduled where the proposals could be presented before the deadline for filing a rule change petition. The proposed amendments were shared with the Superior Court in Maricopa County and were circulated by email to the members of the Arizona Association of Superior Court Clerks before filing. It is the petitioners' desire that the filing of the petition will invite comment

from the Committee on Juvenile Courts, the Department of Child Safety, Attorney General staff who handle juvenile matters, the Court Improvement Program Advisory Committee which includes a broad range of stakeholders in juvenile court matters, and other individuals and agencies with interests in juvenile matters and access to court records.

V. Conclusion.

Timothy Ryan, Presiding Judge of the Juvenile Court for the Superior Court in Maricopa County, and Michael Jeanes, the Clerk of the Superior Court for Maricopa County, respectfully request that this court amend Rule 123 of the Arizona Rules of the Supreme Court and Juvenile Court Rules 19, 47, 75, and 86 to clarify the procedures for access to juvenile records. Changes in Appendix A are reflected in legislative mark-up where additions are shown by underline and deletions are shown by ~~striketrough~~.

DATED this ___8th___ day of _____January_____, 2018.

/s/ Timothy Ryan
**Timothy Ryan, Juvenile Court Presiding Judge
Superior Court in Maricopa County**

[signed]
**Michael K. Jeanes, Clerk of Superior Court
Superior Court in Maricopa County**

APPENDIX A: TEXT OF PROPOSED RULE CHANGES

RULES OF THE SUPREME COURT OF ARIZONA

Rule 123. Access to the Judicial Records of the State of Arizona

(a) – (c) [No changes]

(d) **Access to Case Records.** All case records are open to the public except as may be closed by law, or as provided in this rule. Upon closing any record the court shall state the reason for the action, including a reference to any statute, case, rule or administrative order relied upon.

(1) *Juvenile ~~Delinquency Proceedings~~ Records.*

(A) ~~All R~~ecords of ~~all juvenile~~ delinquency and incorrigibility, emancipation, and guardianship under ARS Title 14 proceedings are open to the public to the extent provided for in the Rules of Procedure for the Juvenile Court, the Arizona Rules of Probate Procedure, -or by law.

(B) All records of dependency, guardianship under ARS § 8-871 through 8-874, termination of parental rights, and adoption are confidential and must be withheld from public inspection unless authorized by law, rule, or court order. ~~Records of all juvenile adoption, dependency, severance and other related proceedings are closed to the public as provided by law unless opened by court order.~~

(C) All information and records obtained in the course of evaluation, examination or treatment of juveniles who have been referred to a treatment program funded by the juvenile probation fund (pursuant to ARS § 8-321) or the family counseling fund (ARS § 8-261 et seq.) are confidential and ~~shall not be released~~ must be withheld from public inspection unless authorized by law, rule or court order. These records include, but are not limited to, clinical records, medical reports, laboratory statements and reports, or any report relating to diagnostic findings and treatment of juveniles, or any information by which the juvenile or ~~his~~ the juvenile's family may be identified, wherever such records are maintained by the court.

(2) – (5) [No changes]

(e) – (f) [No changes]

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A) Parties, Attorneys, and Arbitrators. Parties, attorneys, and arbitrators may be provided remote electronic access, upon registering, to case records that are not sealed in all case types in which the person is an attorney of record, arbitrator, or named party, including an individual, partnership, corporation, association, or public or private organization. An attorney of record on the staff of a public or private law firm may extend access to any other attorney or person working for or on behalf of that public or private law firm, upon the other attorney's or person's registration.

(B) Members of the State Bar of Arizona. In addition to access provided by paragraph (g)(1)(A), attorneys who are active members of the State Bar of Arizona may be provided remote electronic access to all case records that are not sealed or confidential by law, as authorized by the Arizona Code of Judicial Administration (ACJA).

(C) Governmental Entities and Private Organizations Serving a Public Purpose. Any federal, state, tribal or local governmental entity or private organization serving a public purpose may be provided remote electronic access to any case records necessary to carry out a particular governmental or public purpose responsibility. The terms of such access shall be set forth in a memorandum of understanding between the entity or organization and the custodian that includes provisions for safeguarding the confidentiality of any closed records. The director of the Administrative Office of the Courts may enter into a memorandum of understanding with a governmental entity as authorized by the ACJA.

(D) General Public, Registered Users.

(i) Members of the public may be provided remote electronic access pursuant to ACJA § 1-604 to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) Civil case records in any action brought to enforce, redress, or protect a private or civil right but not:

- Juvenile dependency and delinquency or other matters brought under ARS Title 8;

- Family law, paternity, or other matters arising out of ARS Title 25;
- Orders of protection, injunctions against harassment and all proceedings, judgments or decrees related to the establishment, modification or enforcement of such orders, including contempt; or
- Probate proceedings brought under ARS Titles 14 and 36.

(b) Civil traffic case records in any action brought as such under ARS Titles 28 or 41 or a matter expressly designated as a civil traffic violation by a traffic ordinance of a city or town, and any boating violation punishable by a civil sanction under ARS Title 5, chapter 3, articles 1 through 11, or a non-traffic ordinance expressly designated a civil violation or a boating ordinance by a city or town.

(c) Criminal case records in any action instituted by the government to punish offenses classified as a misdemeanor or felony brought pursuant to ARS Titles 4, 13, 28, or local ordinance and case records in any action instituted to punish petty offenses classified by ARS § 13-601.

(d) Case records in any action instituted by a county to enforce an ordinance that provides for criminal and civil penalties pursuant to ARS §§ 11-251 and 11-808.

(to end) [No changes]

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 19. Records and Proceedings

A. Contents of Juvenile Court Files.

1. *Legal File*. The legal file of the juvenile court shall consist of all pleadings, motions, minute entries, orders, or other documents as provided by rule or ordered by the court. Within the legal file, the clerk shall file and segregate confidential documents, including any information and documents from the social file submitted to the court as provided in Rule 30(A). In addition, the court may close all or part of the legal file upon a finding of a need to protect the welfare of the victim or another person or a clear public interest in confidentiality. With the exception of the portions of the file marked ~~maintained as identified as~~ confidential pursuant to [Rule 30](#), or ordered closed by the judge, the legal file shall be open to public inspection without order of the court. The court shall state its reasons for withholding the legal file, or portions thereof, from public inspection.

(to end) [No Changes]

Commented [WD1]: Is there a subsection of this rule we can identify?

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 47. Release of Information

A. Records confidential generally. All records ~~pertaining to~~ of dependency, guardianship under A.R.S. § 8-871 through 8-874, and termination of parental rights ~~shall be maintained as~~ are confidential and ~~shall~~ must be withheld from public inspection ~~except upon order of the court or as otherwise provided by law~~ unless authorized by law, rule, or court order.

~~1. Access to parties and other designated individuals: On request, of the party, and w~~Without review by the court under Rule 47(B), a ~~A~~ parent, grandparent, petitioner, or court-appointed legal guardian named as a party to the case may inspect case records ~~on request~~ while that individual remains a party to the case. Other individuals are authorized to inspect case records without review by the court as follows:

a. Foster parent. A foster parent may inspect case records on request during the foster placement under A.R.S. § 8-529(A)(17).

b. Non-party access. A ~~e~~ Court-appointed legal guardian not a party to the case may obtain a certified copy of the guardian's appointment order on request during the term of the guardian's appointment.

~~e. An individual whose parental rights were terminated, who was not named as a party to the case, or who was dismissed from the case must file a request with the court to inspect court records.~~

cd. A party's attorney of record, ~~or~~ current guardian ad litem, or current advocate appointed under Rule 3, or a local foster care review board, ~~may~~ inspect case records on request and without review by the court.

~~e. Agencies and commissions. The judicial conduct commission, the department of child safety, the department of juvenile corrections, a juvenile probation officer, may inspect case records on request with the court upon a showing of a need and only as required to carry out its responsibilities.~~

~~2. Access to children on ruling by the court under Rule 47(B). In order to inspect court records the following individuals must file a request for a ruling by the court under Rule 47(B).~~

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a. Child - An individual who was the subject of a dependency, a guardianship under A.R.S. § 8-871 through 8-874, or a termination of parental rights action as a minor. ~~in order to inspect court records must file a request for a ruling by the court under Rule 47(B).~~

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b. Birth parent. An individual whose parental rights were terminated, who was not named as a party to the case, or who was dismissed from the case.

c. Agencies and commissions. The judicial conduct commission, the department of child safety, the department of juvenile corrections, or a juvenile probation officer, upon a showing of a need and only as required to carry out its responsibilities.

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with the court to inspect the court records.

~~3. Access to agencies and advocates. A party's attorney of record or current guardian ad litem or current advocate appointed under Rule 3, the judicial conduct commission, the department of child safety, the department of juvenile corrections, a juvenile probation officer, or a local foster care review board may inspect case records on request and only as required to carry out its responsibilities.~~

B. Any person may file a request with the court to inspect court records in a case involving child abuse, abandonment or neglect that has resulted in a fatality or near fatality. In ruling on this request, the court shall consider:

1. Whether doing so is in the child's best interests.
2. Whether inspection of records would endanger the child's physical or emotional well-being or the safety of another person.
3. The privacy rights of the child, the child's siblings, parents, guardians and caregivers and any other person whose privacy rights the court determines need protection.
4. Whether all parties have agreed to allow the inspection.
5. If the child is at least twelve years of age and a party to the proceeding, the child's wishes.
6. Whether inspection of records could cause specific material harm to a criminal investigation.

C. If the court grants the request for inspection of court records, the court shall redact any information subject to the requirements of A.R.S. § 8-525(B)(1) through (6) and A.R.S. § 8-807.01(A)(1).

RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 75. Release of Information

A. Records confidential generally. All adoption records ~~pertaining to adoption proceedings shall be maintained as~~ are confidential and shall must be withheld from public inspection ~~except upon order of the court or as otherwise provided by law~~ unless authorized by law, rule, or court order, or as provided by the procedures in Rule 86.

~~B. Access required for adoption. Other than court employees, individuals authorized to inspect records by law and their attorneys must follow the procedures in Rule 86.~~

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Commented [PN3]: We don't see a need to refer to Rule 86 in a separate section, or to court employees. We believe that it is sufficient to reference Rule 86 in Rule 75(A), and remove the proposed B. Rule 86 stands on its own to provide the process. We are not sure that this change is necessary.

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RULES OF PROCEDURE FOR THE JUVENILE COURT

Rule 86. Adoption Records

A. Request for Records. ~~The court or clerk of court may provide a copy of the order of adoption to the petitioner, petitioner's attorney, and to the adopted individual on request. Otherwise, and unless otherwise provided by law, all other individuals must file a request with the court to inspect adoption records~~ requests for information concerning adoption records will be made in writing and filed with the clerk of the court. ~~The r~~Requests will ~~must state~~ set forth the information being sought and why the ~~requestor needs the~~ information is needed by the requestor. The court will not release identifying information about the adoptee or birth parent; unless:

- (1) ~~in the absence of~~ the file contains or the adoptee or birth parent provides a notarized statement authorizing release, or;
- (2) ~~unless~~ the requestor establishes a compelling need for disclosure.

B. Records of Indian Adoption. ~~Upon application a request filed with the court~~ On request by an Indian individual who has reached the age of ~~eighteen~~ (18) and who was the subject of an adoptive placement, the court which entered the final adoption decree shall inform the individual of the tribal affiliation, if any, of the individual's biological parents. Following a request and a ruling by the court, and ~~p~~provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship. ~~, under Rule 86(B).~~ If the biological parent executed a notarized statement requesting anonymity, information pertaining to the biological parent shall be redacted prior to release.

Commented [PN4]: We are assuming that this is without review by the judge. If that is the case, why are both court or clerk of court mentioned?

Commented [PN5]: Tribal affiliation is mandatory to provide.

SEPARATED AND TRANSNATIONAL FAMILIES



A TOOLKIT FOR CHILD WELFARE CASES – JUDGES, ATTORNEYS AND CHILD WELFARE PERSONNEL

Southern Arizona Transnational Task Force

Tucson, Arizona 2018

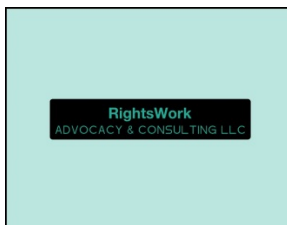


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Southern Arizona's Transnational Task Force Letter of Intent*

This document is the culmination of two years of intensive work by a bi-national task force. The Transnational Task Force members were led by Laurie Melrood and each generously dedicated their time and expertise and represented the following agencies:

Advocacy and Consulting, LLC
Arizona Attorney General's Office
Arizona Department of Child Safety (DCS)
Arizona Superior Court, Juvenile Benches for Pima and Santa Cruz Counties
Institute for Women in Migration (IMUMI), Mexico City
The Florence Immigrant and Refugee Rights Project
Goldman and Goldman, PC
Office of Children's Counsel, Pima County, Arizona
Office of Protection, Mexico Consulate, Tucson, Arizona
Office of Protection, Mexico Consulate, Nogales, Arizona
Puentes de Gracia
Sistema para el Desarrollo Integral de la Familia (DIF), Nogales, Sonora, Mexico

Transnational families are those with close members and meaningful ties in at least two countries. The unified goal was to initiate and improve communications and to develop a tool kit to provide judges, attorneys and DCS case workers in Arizona detailed information on how best to address child welfare cases that involve a transnational family - whether the family was in Arizona or split by an international border. It is our hope that this document will serve not only those in Arizona but will inform and assist child welfare participants in other states to benefit children and families. Our intention is to maintain this document on-line and update it as necessary.

The members of the Transnational Task Force hope that you will find this document instructive and beneficial. We welcome comments, suggestions or requests regarding use of this manual. Please direct these to our Committee Coordinator Laurie Melrood, LMSW, Advocacy and Consulting, LLC, at lmelrood@gmail.com.

Sincerely,

*Laurie Melrood, Advocacy and Consulting, LLC
Nansi Naranjo, Arizona Attorney General's Office
Rosemary Munoz, Arizona Department of Child Safety*

Honorable Kathleen Quigley and Kim Corsaro, Arizona Superior Court, Juvenile Benches for Pima and Santa Cruz Counties

Maria Avila, Family Navigator, Pima County Superior Court, Juvenile

Frida Espinosa Cardenas, IMUMI

Rebecca Curtiss and Laura Belous, Florence Immigrant and Refugee Rights Project

Maurice Goldman and Gloria Goldman, Goldman and Goldman, PC

John Walters, Office of Children's Counsel, Pima County, Arizona

Karen Jimenez and Jorge Saab Hernandez, Office of Protection, Mexico Consulate, Tucson, Arizona

Mariana Villegas and Francisco Elorza, Office of Protection, Mexico Consulate, Nogales, Arizona

Violeta Lazo, Puentes de Gracia

Eduardo Chavez Chavez, Ana Esther Alvarez and Fabian Iniguez, DIF, Nogales, Sonora, Mexico

****The information in this toolkit was developed based on the specific situation in Arizona. We hope that the information can serve as an example of the type of actors and processes that could be relevant in other counties or states, but each local experience is different.***

Key Immigration Terms

A Social Worker's Tool Kit for Working with Immigrant Families: Immigrant Status and Relief Options, Immigrant Legal Resource Center and the Center on Immigration and Child Welfare (CICW), <http://cimmcw.org>, 2015. See Appendix 4, pp.16-19, "Summary of immigration relief options applicable to youth in dependency proceedings" and Appendix 5, pp.20-23, "Glossary of immigration terms"

ARIZONA CHECKLIST AND EXPECTATIONS FOR JUDGES/ATTORNEYS/DCS

CASE INCEPTION

DCS Case Manager:

_____ If parent is in another country or is a foreign national determine which country as soon as possible and notify the appropriate consulate (if possible, prior to PPH).

_____ If parent is likely a foreign national incarcerated or detained in the United States, consult with the appropriate consular authorities to determine location. The consulate has the ability to search in federal and state jails and detention centers. To locate consulate refer to <http://www.usembassy.gov> (for both consulates and embassies). See Mexican Consulate's Guidelines for Transnational Families for contacts.

_____ If parent is in Immigration and Customs Enforcement (ICE) custody, email ICE coordinator Klaas.M.Hubert@ice.dhs.gov.

_____ To determine location in ICE custody, check ICE's online detainee locator at www.ice.gov (or google online detainee locator). Parent's A # (Alien Registration Number) or correctly-spelled name and DOB is required. Email ICE coordinator if you need help finding the correct version of the name. *Note: If the parent was very recently arrested by Border Patrol, that parent may not appear in the ICE Detainee Locator database for up to a week.*

_____ When parent is located, disclose contact information and location immediately to the attorneys (child and parent) so that they can make the appropriate contact and/or request visitation.

_____ DCS shall make arrangements for visitation as appropriate (in person, telephonic, Skype). Contact the ICE Coordinator to arrange for legal visit and child visitation if the parent is in ICE custody.

_____ If family visitation in Mexico is likely, obtain a US passport for the child as soon as possible so that the child can re-enter the United States. The Attorney General's office will submit the order.

Child's Attorney:

_____ If the child does not have a US birth certificate, refer to the immigration clinic to determine the child's legal status. If attorney determines child may qualify for Special Immigrant Juvenile Status (SIJS), child's dependency attorney shall then file a motion and order for SIJS findings from court. If child is close to 18 at time of removal, file this motion soon as possible; SIJS findings in particular MUST be made prior to child's 18th birthday.

SERVICES AND VISITATION

DCS/Attorneys/Judge:

- Parents have basic rights regarding their children no matter their immigration status, or even whether or not they reside outside of the US.

_____ Visitation options if parent in ICE Custody:

_____ Phone or Skype calls with assistance of ICE Coordinator.

_____ In-person at detention center, if transportation is available.

_____ Minors do not require US immigration status to visit parent. Foster parent, relatives, kinship placement or other DCS authorized adult, including the DCS case manager, can accompany child to visit the parent at ICE facility. You must make a prior appointment for a visit with the ICE coordinator and will be approved to enter by providing a valid driver's license or other valid government-issued ID. (*Caveat: In some states persons without immigration status in the US, including minors and their caregivers (foster parents, relatives, kinship placement), should not enter an ICE detention facility. In these situations, phone or Skype calls represent the best option. Contact the ICE Coordinator for assistance.*)

_____ Attorneys may also visit with parents in person at detention center.

_____ Visitation options if the parent is in Mexico:

_____ If the child is adjudicated dependent and the parent is in Mexico, contact DIF through the Mexican consulate to arrange for services.

_____ Arrange in-person visits through the consulate, either at the border or in Mexico (arrange through the consulate). Child will need a US passport in order to travel to Mexico and re-enter the US.

REUNIFICATION IN MEXICO OR ANOTHER COUNTRY

The majority of children in State custody are US citizens. As a part of the family reunification plan, the Judge will order the parties to obtain the proper US and Mexican or other country documentation to allow the child/ren to travel and reside in both countries. Work with consulate for appropriate documentation.

If reunification with a parent or family member in Mexico is likely, it is preferable for a dual-national child to have both a US passport and a Mexican passport to establish both US and Mexican citizenship.

If the child entered Mexico with a US passport, the child must register at the civil registry in order to obtain dual citizenship and then notify the Mexican Immigration Institute that s/he is now a Mexican national. Please refer to “Required Documentation for US-Born Children” by the Mexican Consulate.

Please consult and then confirm with consulate of any other country to determine exact requirements for a child to legally enter that country.

DCS:

_____ If the child is not a US citizen, obtain child’s birth certificate from the consulate and disclose to child’s counsel for possible Special Immigrant Juvenile Status case.

_____ If the child has a US birth certificate, obtain an apostille (special official seal). See Mexican consulate’s instructions for required documentation.

_____ Ensure child’s name and parent(s) names are EXACT (first, middle and all last names) on the US birth certificate per traditional naming conventions.

_____ If the child is a US citizen, DCS must obtain a US passport in order for the child to travel outside the US. It can take up to 4 months to receive a passport, so request this as soon as possible.

Note: Any DCS case manager, attorney, etc., accompanying child into another country must also have a valid passport or crossing card to re-enter the US.

SIX MONTHS INTO CASE

DCS/CHILD’S ATTORNEY:

_____ The child's attorney and/or DCS shall refer child's immigration case to an immigration clinic regarding SIJS, T-visas, VAWA, U-visas, etc., if child has a foreign birth certificate or has not obtained a US or other birth certificate.

_____ As above, child's dependency attorney shall file a motion and order for SIJS findings from court in appropriate cases, if not previously filed. *If child is close to 18 at time of removal, file this motion *as early as possible*, because findings MUST be made prior to child's 18th birthday

_____ If reunification to family members in Mexico is possible, follow the steps below as soon as possible:

_____ See Mexican Consulate's Guidelines on Required Documentation for US-Born Children (*see* page 23)

_____ If child is a non-citizen and the child's immigration case is pending, the child's immigration attorney MUST be contacted prior to any visitation outside of the US or placement outside of the US.

_____ DCS is advised to consider translation of child's US health and school records into Spanish or other appropriate language if child will be reunifying to another country.

_____ If child is reunifying to another country, please consult that country's consulate.

SIX TO FIFTEEN MONTHS INTO CASE

_____ If reunification is likely, see above at the three/six months and below for transition considerations.

_____ If child does not have a US birth certificate and reunification is not likely and case plan is adoption, guardianship or APPLA, refer case to immigration attorney or clinic immediately. See above.

TRANSITION CONSIDERATIONS FOR CHILD/REN TO BE REUNIFIED WITH A PARENT OUT OF THE COUNTRY

- 1) If the child's case includes therapy, notify the therapist about the transnational reunification plan so that the therapist can prepare the child for the transition.
 - 2) For reunification in Mexico, see Reunification Guidelines for Transnational Children to ensure all documents in place prior to placement of child with parent.
 - 3) For Mexican reunification, see also IMUMI's guide, "Where do we go from here," available at http://uf.imumi.org/recursos/where_challenges.pdf.
 - 4) If the child does not speak the language, consider ordering language classes or tutors.
-

FAQ'S AND TIPS FOR WORKING WITH TRANSNATIONAL FAMILIES WHEN CHILDREN ARE SEPARATED FROM THEIR PARENT(S)

A DCS report indicates that a parent in the case is either

- Incarcerated for a crime and likely to be picked up by Immigration and Customs Enforcement (ICE)
- Already detained in an immigration detention center in the US
- Deported to Mexico or another country

I. Locating and assisting children and parents

Were the children with the parent(s) when they were arrested? Where are the children now? Are they safely placed? Consult with persons close to the family. Be aware that parents, children and extended family may be hesitant to disclose the location of the children, or any information, as a result of their legal status in the US. Professionalism, cultural sensitivity and empathy will go a long way toward gaining trust with the family and engaging them in this process. Undocumented relatives (persons living in the USA without proper immigration authorization) may be able to clear all available background checks and be considered for placement with upper management approval. **TIP:** A majority of the children in immigrant families are US citizens and may be eligible for State benefits. However potential kinship placements who are undocumented are not entitled to benefits.

Locating the parents. Were the parents arrested and taken by Border Patrol? Encourage family members/ friends to provide information about the current whereabouts of the parent(s). Reassure family members that DCS is not required to report undocumented individuals to ICE. This reassurance may lead to improved communication and information sharing. The family/ friends may be experiencing trauma given the dynamics of the separation, arrest, legal issues, etc. Engaging the family/ friends early on will create timely and meaningful opportunities for DCS to assist the parent(s) in moving through the investigative and potential dependency process with better options for support and services. If the parent(s) is already deported outside the country, contact the appropriate Consulate and enlist their help in establishing timely contact with the parent(s).

Locating a parent detained by Immigration & Customs Enforcement (ICE). If the parent(s) is believed to be in ICE detention, first obtain the parent's FULL name (ex., Jose Luis Garcia Menendez), the DOB (mo/day/yr) and country of origin. Then,

- Go to www.ice.gov/locator and input the information,
- Or call current ICE Parental Interest Field Officer, Mr. Klaas Hubert, (520) 464-3097,

- Or appropriate Consulate,
- Or the Florence Project, (520) 868-9610, www.firrp@firrp.org

Request help from the Mexican Consulate (or the Consulate for the country of origin, e.g., Guatemala, Ecuador or Honduras) as soon as possible. Consulate staff can assist with:

- Locating a detained parent in the US
- Locating family members in their country of origin,
- Locating family members in the US for possible kinship placement or support,
- Assisting with procedures if reunification is to occur in their country of origin
- Contacting the appropriate “Desarrollo Integral de Familias” – (DIF, Mexico’s child welfare entity) office to assist with DCS home studies, case plans and additional services/ supports for a deported parent

Minors with no parent available to care for them in the US have important legal immigration options. Encourage family members to share information. Reassure them that no one connected with the case will report them to Immigration and Customs Enforcement (ICE). DCS is specifically excluded from prohibitions to serve certain classes of immigrants that may apply to some other Arizona entities. Overlooking this step, or adopting a “don’t ask, don’t tell” approach, could mean that families will not receive the help they need. A Legal Clinic is now available to assist DCS Specialists with making this determination and referring for further services. The Legal Clinic is free, offered once monthly, is held at the Pima County Juvenile Court Center and is overseen by immigration and dependency experts.

II. Immigration and child welfare timelines and responsibilities

At the time scheduled for the Team Decision Making Mtg., and prior to the Preliminary Protective Hearing, if possible:

- Locate and have present (either in person or by phone) people significant to the family (older children, extended family, teachers, pastor, neighbors), so that you, as a DCS Specialist, can gather information regarding possible placement, services and visitation
- Communicate with team members and convey necessary findings in the court report
- Know that getting in touch with a parent just arrested by US Border Patrol (south of the Gila River) or ICE (north of the Gila River, ie Maricopa County and further north) will

likely be impossible because the parent is generally being moved around within the enforcement system for the **first 24 to 72 hours**

Currently for children over 3, the Adoption and Safe Families Act of 1997 typically allows a case to continue for 12 months before the Court proceeds with a permanent plan for the child. *ICE's timelines are different*, depending on the individual's immigration case. A parent may remain in detention for weeks, months or years. The immigration and dependency systems would do well to work together to create best possible outcomes for children and families. A dependency judge may extend the time when there is documented evidence of the case being actively worked. Apprise team members continually of what the two systems are doing, in accordance with the child's best interests.

Know that the detained or deported parent has an open "immigration case" and may have contracted with an immigration attorney or key advocate. As soon as possible, contact and stay in touch with the parent(s) immigration attorney and/or advocate. They may have important information or questions for you. Likewise you will have questions for them as the case progresses. Having the attorneys, both immigration and dependency, talk to each other can often help assure more suitable outcomes, as this helps parents properly exercise their rights even while geographically so distant from the venue where the case, and usually the children, are located.

When detained or deported, immigrant parents generally can:

- Be served papers and obtain notarization of documents
- Participate telephonically in dependency hearings
- Access free phone calls with their court-assigned dependency attorney
- Access free phone calls from and to the DCS Specialist engage in phone calls, visits and correspondence with their children at the detention center. *Note: Individuals without immigration status in the US, including minors, depending on your state should not enter an ICE detention facility.*
- Request and participate in case plans and to have a voice in what happens to their children rarely, with a court order and US Border Patrol (USBP), as well as with arrangements made in advance through the Consulate and USBP, obtain permission to appear in person for a severance trial.

When detained or deported, immigrant parents generally cannot:

- Receive phone calls except when being called by prearrangement for telephonic participation in a dependency hearing
- Comply with various features of their case plan due to lack of services in detention or abroad

- Have access to the internet
- Work their immigration cases expeditiously, though they may deeply desire to leave detention and to reunify with their children, because it can take months for the smallest matter to be heard in Immigration court
- Take care of almost any kind of family emergency, though they can be consulted
- Feel upbeat or animated without outside encouragement, visits from their children, etc.

Working with parents detained or deported by immigration enforcement can present significant barriers. DCS Specialists can gain working knowledge of the immigration, detention and deportation systems impacting a transnational family.

Like parents who experience incarceration, these parents may become discouraged when contemplating what is happening, or what they fear may happen, to their lives and family. They can be detained indefinitely with no real knowledge of what the future holds for them. DCS Specialists can be a bridge to better outcomes for children. Reunification is possible in some cases. In others, ongoing communication may be the goal. Whatever the goal, families can be helped to achieve the most dignified solutions possible. It is important to try and keep Transnational parents involved if at all possible.

QUICK RESOURCE GUIDE FOR ASSISTING SEPARATED FAMILIES

LOCATING A PARENT detained by ICE in Arizona, in order to arrange an attorney visit, child/parent visit or case manager phone call, telephonic representation in dependency court, or other arrangements regarding DCS processes, call ICE Parental Interests Field Representative Supervisor: KLAAS HUBERT 520-464- 3097, or write Klaas.M.Hubert@ice.dhs.gov



LOCATING A PERSON DETAINED ANYWHERE IN US by ICE, see National ICE Detention Locator: <https://locator.ice.gov> Have full correctly spelled name, first and second names as well as first and second surnames, country of origin and DOB also Alien Registration (“A”) number, if known. A# helps but isn’t required to locate an arrestee. (For ex., José Manuel Garcia Lopez, Guatemala, 10/20/0000, A111-222-333)

LOCATING AN UNACCOMPANIED MINOR (UAC) in ICE juvenile shelter: Child sponsor or family members can call Office of Refugee Resettlement (ORR), 800-203-7001, ext. 2, for English (9 am – 9 pm) Attorneys needing info re UAC see <https://www.hhs.gov/programs/orr>

MEXICO AND OTHER LATIN AMERICAN CONSULATES IN ARIZONA

For help locating family members anywhere in Mexico, contact with Mexico DIF, arranging phone calls and parent visits with separated children, requesting consular appearance at hearings, etc.

Phoenix: (602) 242-7398	Ecuador Consulate, Los Angeles, CA: (323) 658-6020
Tucson: (520) 882-5595	Guatemala Consulate, Tucson: (520) 398-6912
Nogales: (520) 287-2521	Guatemala Consulate, Phoenix: (602) 200-3660
Douglas: (520) 364-3142	El Salvador Consulate, Tucson: (520) 318-0410
Yuma: (928) 343-0066	Honduras Consulate, Los Angeles, CA (213) 995-6406

24/7 Hotline for Mexico nationals (anywhere in US): 1-877-632-6678 (CIAM Call Center in Tucson)

Florence Immigration and Refugee Rights Project (Florence Project) helps locate and offers some assistance for detained parents with children in DCS custody. Free legal rights orientation and support for adult and child immigrants detained in Florence and Eloy detention facilities. Serves all UAC children in Phoenix/Tucson ICE contract juvenile shelters. Offers rights training for immigrant parents.

Phone: (520) 868-0192 (Florence) (520) 203-7912 (Tucson) (602) 307-1008 (Phoenix)

Fax: (520) 868-0192 (all)

Email: firrp@firrp.org (all)

Website with pro se materials: www.firrp.org

Phone:

(520) 868-0192 (Florence)

(520) 203-7912 (Tucson)

(602) 307-1008 (Phoenix)

Fax: (520) 868-0192 (all)

Email: firrp@firrp.org (all)

Website with pro se materials:

www.firrp.org

To check whether your client is detained in an ICE detention center: Provide the 9-digit Alien Registration ("A") number that identifies an immigrant's case, and complete first and second surnames (see above).

Florence Service Processing Center (also known as Florence SPC, run by ICE)

3250 N. Pinal Parkway, Florence, AZ 85232
(520) 868-5862, 7:00 am- 3:00 pm or (520) 868-8377 evenings (3:00 pm – 7:00 am) and weekends

ICE Detention, Eloy (run by CORE/Civic, a private contractor)

Eloy Detention Center, 1705 E. Hanna Rd., Eloy, AZ 85131 (520) 464-3000.

Overview of the ICE Parental Interests Directive

On August 23, 2013, U.S. Immigration and Customs Enforcement (ICE) issued the *Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities Directive* (Parental Interests Directive). This directive complements existing policy by helping ICE better manage and track cases involving detained alien parents or legal guardians who have minor children who are U.S. citizens or lawful permanent residents, or are primary caretakers of minor children without regard to the dependent's citizenship. The directive guides the agency to enforce immigration laws fairly and with respect for a parent's/guardian's rights and responsibilities.

The Parental Interests Directive contains several elements related to the operations of ICE's Enforcement and Removal Operations (ERO) field offices' handling of cases involving primary caretakers, parents or legal guardians of minor children, and particularly focuses on aliens involved in family court or child welfare proceedings. These elements include, among others:

1. Designating a specific point of contact within each field office for parental-interests matters;
2. Promoting complete entry of relevant case information into ICE's data and tracking systems;
3. Developing processes to regularly identify and review cases involving parents, legal guardians and primary caretakers;
4. Determining detention placement;
5. Facilitating court participation;
6. Allowing parent-child visitation; and
7. Accommodating the arrangements of parents, legal guardians, or primary caretakers who are facing pending removal for the care and travel arrangements of their children.

No Private Right Statement

While this overview of the Parental Interests Directive addresses its effect on certain parents, legal guardians and primary caretakers, the directive applies to ICE and does not create any right or benefit, substantive or procedural, enforceable law by any party in any administrative, civil or criminal matter. The security and safety of any ICE employee, detainee, ICE detention staff or member of the public will be paramount in the exercise of the procedures and requirements of the directive.

Contact Us

Anyone may contact ICE on parental interests matters, including but not limited to: detained alien parents, legal guardians or primary caretakers of minor children in the United States; family or child dependency court officials; social workers or other child welfare authorities; immigration attorneys; family law attorneys; and other child welfare or immigration advocates.

- Prior to contacting ICE headquarters on your parental interests concern or question, you should first try to resolve your request or concern at the field level through one of our 24 Parental Interests Field Liaisons.



[Use this interactive map to submit an email inquiry or request to the outreach mailbox of any one of our 24 field offices.](#) **Note:**

Enter into the subject line of the email, "Parental Interests Inquiry." If you need to contact ICE by phone, see below for information on the Community and Detainee Helpline.

- If your attempts to resolve your concerns or request at the field level fail, you may send an email to ERO Community Outreach at ICE Headquarters: ERO.Outreach@ice.dhs.gov. **Note:** Enter "Parental Interests Inquiry" into the subject line of the email.
- You may also contact ICE Headquarters by calling the ICE Community and Detainee Helpline (Helpline) at 1-888-351-4024 during regular business hours, 8 a.m. to 8 p.m. EST, Monday through Friday. **Note:** State that your request is a "Parental Interests Inquiry." Bilingual (English/Spanish) operators are available. If necessary, interpretation services are also available to communicate with individuals in other languages.
- If you elect not to send your request or inquiry through either the ERO Outreach Mailbox or by contacting the ICE Community and Detainee Helpline, you may send your inquiry via U.S. Mail to the following address:

ATT: Parental Rights Coordinator
ERO Custody Programs and Community Outreach
U.S. Immigration and Customs Enforcement
Mailstop: 5125
500 12th St., SW
Washington, D.C. 20536

Note: Sending via standard mail could take up to 10 business days or more due to screening procedures.

PRACTICAL GUIDANCE FOR JUDGES, ATTORNEYS AND CHILD WELFARE SPECIALISTS RELATED TO PARENTS WHO MAY BE DETAINED BY ICE

BACKGROUND This guidance document was developed to improve access to parents detained at ICE-Eloy and ICE-Florence detention centers who have children involved in the state child welfare system, *in accordance with ICE Parental Interests Directive <https://www.ice.gov/parental-interest>*, issued August, 2013. It may also serve as a model for similar communication involving other facilities. This guidance may be of benefit to consulates when working with immigrant parents detained by ICE (Immigration and Customs Enforcement) whose children are in the custody of Arizona Department of Child Safety (DCS).

PURPOSE OF GUIDANCE: Immigrant parents and their children involved in both child welfare and immigration proceedings are subject to timelines and requirements imposed by separate and sometimes disparate systems. It is intended to promote expedited and enhanced communication between parents detained by ICE and their DCS team, juvenile court personnel, and their children in foster care. This guidance information is intended for:

- Employees of ICE;
- Employees of Arizona *Department of Child Safety (DCS)* when any of their duties impact a parent detained by ICE whose child or children have been taken into custody of the State of Arizona; and
- Attorneys and/or legal representatives assisting these families.

***This guidance document reflects current (January 2018) ICE and DCS practice and is subject to change.**

I. LOCATING A PARENT BELIEVED OR REPORTED TO BE DETAINED BY ICE

If ICE has custody of a parent she or he may be detained at the Eloy Detention Center in Eloy or one of four detention facilities in Florence. The location of a parent is not released publicly for security reasons. To locate a detained immigrant parent believed to be in the custody of ICE, DCS personnel and advocates need the following information:

- The correctly spelled first and middle names and all last names. (e.g. use Maria Juana Lopez Garcia, not simply Maria Garcia or Maria Lopez);
- Any aliases or nicknames known to be used by the detained parent;
- The detained parent's complete birth date (month/day/year) and country of birth;
- If known, the detained parent's Alien Registration Number (also called "A" number or "numero de pulsera"). *Parent can be located without A# if unavailable.*

Personnel may try:

- Online Detainee Locator System (ODLS), <https://locator.ice.gov/odls/homePage.do>; or www.ice.gov
- ICE Detention (Eloy), 1705 E. Hanna Rd., Eloy, AZ 85231, Tel. (520) 464-3000
- Florence Service Processing Center, 3250 N. Pinal Parkway, Florence, AZ 85232, Tel. (520) 868-5862.
- Mexico Consulate 24/7 Hotline: (1) 855-463-6395
- El Salvador Consulate, Tucson: (520) 318-0411
- Guatemala Consulate, Tucson: (520) 398-7301 Phoenix: (602) 200-3660

If the above options for locating a detained parent are unsuccessful, contact Supervisory Detention and Deportation Officer Klaas Hubert, (520) 464-3097, Klaas.M.Hubert@ice.dhs.gov, OR DESIGNEE with the identifying information noted above. Officer Hubert is the Arizona ICE field representative (1/2018) for the ICE Parental Interests Directive based at the Eloy Detention Center in Eloy, Arizona. He is able to assist individuals in locating ICE detainees housed in the Florence detention facilities as well.

If the parent in question recently crossed the US border, he or she may be in the custody of US Border Patrol or ICE in a short term holding facility within the 100-mile border radius. ICE personnel state that a person may sometimes be detained by US Border Patrol (up to the Gila River) or by ICE (Gila River and north) for days before actually arriving at one of the designated detention facilities in Eloy or Florence where

they will be housed for a longer period. Therefore, it is suggested that DCS personnel make a call at the early DCS investigative stage and, if unable to locate the parent, *to try again two weeks later* to the detention facility to see if the person has arrived.

A parent being held in ICE detention in Arizona may be located in any one of these facilities:

Eloy, Arizona

Core/Civic Eloy Detention Center

Phone: (520) 466-4141

Visiting Information: www.ice.gov/detention-facilities/index.htm

Florence, Arizona

The Florence Detention Center/Florence SPC

Phone: (520) 868-8377

Visiting Information: www.ice.gov/detention-facilities/index.htm

Core/Civic Florence Correctional Center

Phone: (520) 867-9095

Visiting Information: www.ice.gov/detention-facilities/index.htm

Core/Civic Central Arizona Detention Center (US Marshall Service prisoners only)

Phone: (520) 868-3668

Visiting Information: www.correctionscorp.com/facility/central-arizona-detention-center/

The Mexico Consulate, (1) 855-463-6395, is a useful option for locating a detained parent who is a Mexican national. The Guatemala Consulate provides similar assistance for Guatemala nationals. Consulates also visit their detained nationals inside the ICE facilities and at the DeConcini Federal Courthouse in Tucson.

Conditions such as overcrowding may cause detained immigrant parents to be transferred to other facilities within Arizona, or outside of Arizona in limited cases. It is ICE practice to inform detainees of a pending transfer and to contact their immigration attorney of record. It is then the responsibility of the detained parent to initiate contact with family members and DCS case manager or attorneys.

II. PLANNING FOR INCLUSION OF DETAINED PARENT IN DEPENDENCY PROCEEDINGS

Because critical decisions are made early in the case, it is very important for DCS staff to be able to locate the parent as soon as possible. DCS regulations require that decisions regarding the temporary placement of a child who has been taken into temporary custody occur within a maximum of the first 72 hours of the time of the service of the temporary custody notice and typically within the first 48 hours. A second timeline occurs within the following 5-7 days ending in the Preliminary Protective Hearing (PPH) While it is true parents detained by ICE may not be able to be found this early in the immigration case, it is definitely worth trying the above-mentioned resources.

If a relative or other party knows the whereabouts of a parent detained by law enforcement or ICE, he/she can call the DCS investigation worker or the DCS hotline, (888) 767-2445, without placing themselves in danger of being arrested due to that call. If a parent is known to be in ICE custody but has not been located within two weeks of the arrest, DCS may call the contact numbers provided in Section I of this document to determine the location of the detained parent. If DCS staff is unable to locate the parent using the online detainee locator system (www.ice.gov and click "detainee location"), it is best to contact ICE (Eloy) or ICE (Florence) directly.

A detained immigrant parent or other party can also make a toll-free call to the DCS Hotline (888) 767-2445 to notify DCS of their detained status or to obtain information about a minor child involved with DCS. If there is an open DCS report, the DCS Hotline will take the communication and send any relevant information to the assigned DCS specialist, if applicable. Reassure relatives that calling the DCS Hotline can help speed up communication in the case and that they will not be tracked down or arrested for making the call.

If the detained parent is successfully located, affirmative steps should be taken to engage the parent, either by telephone or in person, in initial child placement discussions (e.g. Team Decision Making (TDM), Preliminary Protective Hearing (PPH), etc.). The parent has the right to fully participate in discussions regarding the child's placement.

Detainee Telephonic Appearance in a Juvenile Court Dependency Proceeding¹

¹ Placing immediate phone calls: A free three minute outgoing phone call is permitted each time an individual is transferred to another detention point. Phones inside the facility are subcontracted, and several are found in each pod. Phone cards are available for purchase within the facility at the commissary. Most detainees know how to access the phones and phone cards *but may lack cash to pay for the phone cards.*

For the first hearing, the DCS specialist will notify the Dependency Unit at Juvenile Court to arrange telephonic appearance with the ICE field. For succeeding hearings, the parent's attorney is the one to make the arrangements with the ICE field representative for telephone participation. For Juvenile Court Dependency Proceedings other than the PPH, the Court's Judicial Assistant or Bailiff will arrange for the phone line, and the DCS Specialist will share the telephonic information with ICE in accordance with the procedures outlined below.

The notification procedure is as follows:

- Parent's attorney to fax or scan/email an official document or a court order, (*letterhead helpful not required*), to the detained parent's Deportation Officer (DO) *or, to the ICE Compliance Officer* or if unknown, to Supervisory Detention and Deportation Officer Klaas Hubert, Fax (520) 466-2028, Klaas.M.Hubert@ice.dhs.gov
In all cases, SDDO Hubert should be copied on such notifications (1/2018)
- When the document/order is approved by the Deportation Officer (DO), facility personnel will assist the detained immigrant parent at the time of the hearing by allowing access to a telephone in a private area at the time of a scheduled meeting or hearing;
- A minimum of 48 hours advanced notice should be given to the ICE field representative *whenever possible* to allow proper notification to ICE-Eloy or ICE-Florence and for arrangements to be made.

***Note: ICE does not provide interpreters for detainees in non-immigration related matters.**

- DCS meeting: DCS can provide interpretation if given a twenty- four hour notice;
- Court Proceeding: Court will provide interpretation services as required for dependency hearings.

III. ARRANGING VISIT OF A MINOR WITH A PARENT IN DETENTION

DCS, under approved circumstances, and sometimes with the permission of the Juvenile Court, can arrange for minors* in DCS out of home care with a family member or with a non-relative foster parent, to visit a parent detained in an ICE detention facility. (*Child Welfare officials are advised to check with the ICE Child Welfare liaison in the Field Office that has jurisdiction over the facility where the parent is detained to make sure of the most current practice, especially when the Child is undocumented. ICE will allow "approved adults" *with appropriate status* (e.g. CPS case manager, parent aide, foster parent, custodial grandparent or relative) to accompany a child on a visit. Visitors under the age of 18 MUST be accompanied by an ICE- approved adult. (*Caveat*

outside of Arizona: Persons without immigration status in the US, including minors and their caregivers (foster parents, relatives, kinship placement), should not enter an ICE detention facility. In these situations, phone or Skype calls represent the best option. Contact the ICE Coordinator for assistance.)

The detained parent can initiate a visitation request by submitting the minor's name, the accompanying adult's name, and DOB and Social Security number for each. ICE will permit a minor child to visit even without the minor possessing a Social Security number. (*Caveat outside of Arizona: a child will most likely be required to possess a social security number.*) A visitation form may also be submitted by DCS on behalf of the minor child.

Once a visitor's name and background are vetted and approved, they are added to a list of approved visitors maintained by the ICE contractor.

Normal visitation hours are between 8:00 am and 4:00 pm on Saturday, Sunday, and holidays. Outside of normal visiting hours, arrangements can be made with ICE to facilitate a special visit. DCS approved staff or the "approved adult" must accompany minors during special visits. Special visits must be requested by DCS in writing, and arrangements should be made through the assigned Deportation Officer, *with a copy of request to the ICE field representative*. These visits will only be accommodated during hours that the visitation areas are normally staffed.

A minimum of 48 hours advanced notice should be given to allow proper notification to the facilities and for arrangements to be made. Special visits should be the exception, not the rule. Use of designated visitation hours should be the first option.

IV. ARRANGING PHONE CALLS BETWEEN PARENT AND A MINOR

Similar to visitation arrangements, as outlined in Section III above, phone call visitation between children in DCS out of home care and their parents are pre-scheduled and arranged by either the Court or the DCS Specialist, in accordance with the child's best interests.

Phone calls free of charge are permitted by prearrangement as outlined below, to immigration attorneys, dependency attorneys, DCS case managers for appropriate business related to the child welfare case.

Once the arrangements have been made for the phone call, the assigned DCS specialist will work with ICE to arrange for the telephonic appearance of the detained immigrant parent using the following procedures:

- DCS to fax or scan/email an official document or a court order, (on letterhead *but not required*) to the detained parent's Deportation Officer (DO) or, if unknown, to ICE Compliance Officer, or to Supervisory Detention and Deportation Officer Klaas Hubert, fax (520) 466-2028, Klaas.M.Hubert@ice.dhs.gov;
- When the document/order is approved by the Deportation Officer (DO), facility personnel will assist the detained immigrant parent by allowing access to a telephone in a private area at the time of a scheduled meeting or hearing;
- A minimum of 48 hours advanced notice should be given to allow proper notification to ICE-Eloy and for arrangements to be made.

Detainees are permitted to use facility telephones from 6:00 am to 10 pm daily. If a detained parent is having difficulty with the connection or any other complications, the parent can ask for assistance from the CoreCivic officers within the pod, the ICE compliance officers, or their Deportation Officers. The parent can make calls to anyone they wish using the phone cards issued to them by CoreCivic.

If the parent chooses not to make or receive a phone call, detention personnel cannot compel the parent to comply with a request or an order for an outside phone call.

Attorneys for the detained parent should be aware of the nature of the process whereby their clients make and receive phone calls within the detention facility. Please note that, since telephone calls require the purchase of a phone card, many parents do not have sufficient funds to make phone calls from detention *outside of the permitted personnel listed above as able to receive phone calls free of charge*.

V. MAIL TO DETAINED PARENTS

Mail being sent from a detained parent's child must go through the normal facility mail service. This type of mail will be handled the same as any other mail being received from a detained immigrant parent's family or friends. It will be inspected for contraband before being delivered to the detained parent.

Mail to a detained parent, from either their DCS case worker or the Juvenile Court system should be marked as "legal mail". Legal mail will also be opened and inspected, but it will be done in the presence of the detained immigrant parent, and then given to

them. This type of mail MUST be in official agency envelopes AND clearly marked “legal mail” to be treated as such.

Due to the nature of the facility, delivery confirmation is not practical or possible. Delivery confirmation can be requested through the U.S. Postal Service, for a fee, but be aware that the USPS delivery confirmation will only confirm delivery to the facility mail room, not actual physical delivery of the mail to the detained immigrant parent.

Attorneys wishing to send materials by mail such as a minute entry to detained clients may do so. Translation of the documents can be accomplished by the attorneys requesting this service.

VI. HOW FAMILY MEMBERS CAN HELP

Family members or other individuals involved with an ICE detainee who has a minor child involved with DCS can share information regarding the whereabouts of the detainee, by contacting the DCS Hotline, (888) 767-2445, with this information, *with no consequence to themselves regarding immigration status*. Providing the Alien Registration number (“A” number, “numero de pulsera”) and/or the full name of the detainee as well as information regarding the child is crucial information and will greatly assist DCS in engaging the parent in the dependency process as early as possible. The Hotline operator may not be able to immediately assist the caller; however, if there is an open DCS report, the Hotline operator can contact the minor’s DCS case manager and relay the crucial information.

GUIDELINES ON REQUIRED DOCUMENTATION FOR US-BORN CHILDREN REUNIFYING WITH PARENTS RESIDING IN MEXICO

The government of Mexico requires that US-born children coming to reside in Mexico with their parents possess certain documents to facilitate receiving basic benefits and services such as schooling and medical care. The list below identifies the official documents required by the Mexican government for a child to be able to live permanently in Mexico. Having these documents in hand prior to entry will assure a smoother reintegration, as the documents can be difficult and very time-consuming to obtain once inside the country. Transition periods can be a challenging time for families. Parents, judges, attorneys, caseworkers and persons helping reunify families in Mexico are therefore advised to plan in advance. When it is known that a child who is a non-Mexican citizen is going to live in Mexico, it is best to proceed to obtain the documents immediately.

MUST-HAVE DOCUMENTATION

1) US birth certificate

- a. Include 3 copies
- b. Affix an apostille*
- c. Include the translation into Spanish.

Why?

The birth certificate helps the child and his/her family to attain Mexican nationality (see Mexican Nationality annex). It is necessary to be able to affix an Apostille to the birth certificate (see Apostille annex) as this would help prevent hindrances and delays in the children's transition to Mexico.

2) The Juvenile Court minute entry designating custody with a parent or parents residing in Mexico.

- a. Affix an Apostille.
- b. Include translation into Spanish

Why?

Rulings and determination by US judges are not automatically recognized in Mexico, there must be a domestication hearing before Mexican Tribunals. Rulings dictated in the United States legal practice (Common law system) must be validated upon entering the Mexican legal framework (Civil law system).

3) US Passport

Why?

Children with US nationality may want or need to return to the US at some future time. The US passport confirms identity and nationality. It is best to obtain the US passport while the child is still domiciled in the US.

IMPORTANT INFORMATION:

- A. Requesting a passport may take 3 months or more.
- B. Presenting a passport is mandatory for international air travel
- C. The passport is also the document required for International Boundary Crossing, such as the boundary between Mexico and the United States. US citizens are required to have either a valid passport or a valid crossing card to be able to re-enter the US at the Mexico border.

MEXICAN NATIONALITY

Mexico allows Mexican-born citizens to acquire a different nationality without giving up the Mexican one. Likewise, Mexico allows US-born children to obtain Mexican nationality if at least one of his/her parents is a Mexican citizen. This is called “dual nationality.”

- 1. There will be no loss of Mexican citizenship upon receiving citizenship in another country.
- 2. Mexican citizenship is conferred upon first generation children born abroad. Only Mexicans born in Mexico or naturalized Mexicans may pass citizenship on to their children born abroad.
- 3. It is best for a child of Mexican nationality to enter Mexico on their Mexican passport. Entering on a US passport will give them a tourist visa, and if they remain in Mexico, they could incur large fines for overstaying this visa. To avoid fines, the child would have to present to the Mexican immigration office upon registering their Mexican nationality to modify their entry but this is a complicated process.

Since March 20, 1998, Mexican nationals who choose to hold citizenship in a second country will be able to maintain their rights in Mexico and will not be treated as foreigners upon return to Mexico. They are treated as citizens wherever they reside, and may own property in areas restricted to foreigners. Overall, they will enjoy the same rights on their national territory as other Mexicans.

***WHAT IS AN APOSTILLE?**

Foreign documents from one country to another are not automatically seen as valid upon entering the second country. To be made valid in another country, the said document must be authenticated or "apostilled".

An "apostille" is a form of certification affixed to documents for use in countries that participate in the Hague Convention of 1961. Both Mexico and the US have signed and ratified the Convention.

Apostilles may be obtained and affixed at the State of Arizona offices, address below.

Filing by Mail:	Personal Filing - Tucson Office
Secretary of State Attn: Apostille Dept. 1700 W. Washington Street, Fl. 7 Phoenix, AZ 85007-2808	Arizona State Complex Building 400 West Congress First Floor, Suite 141 Tucson, AZ 85701

IMPORTANT TIPS:

- A. If unsure how to proceed, ask an immigration attorney or the Consulate for guidance.
- B. If child is not a US citizen, consult with an immigration attorney or the Consulate
- C. Start obtaining documents once the possibility for transition is a realistic possibility.

For more information and assistance on any of the above requirements, contact:

Consulate of Mexico in Tucson (Pima and Pinal Counties) 3915 E. Broadway Blvd. Tucson, AZ, 85711 USA (520) 882-5595 civiltuc@sre.gob.mx	Consulate General of Mexico in Nogales (Santa Cruz County) 135 W. Cardwell St., Nogales, AZ, 85621 USA (520)287-0115 proteccion@consulmexnogales.com
Consulate General of Mexico in Phoenix (Maricopa and all northern counties) 320 E. McDowell Rd. Phoenix, AZ, 85004 USA	Consulate of Mexico in Douglas (Cochise, Graham, and Greenlee Counties) 1324 G Ave. Douglas, AZ, 85607 USA (520) 364 - 3107 / 3142

<p>(602) 242-7398/ 242-3649 gvalenzuela@sre.gob.mx fherrera@sre.gob.mx</p>	<p>aangeles@sre.gob.mx</p>
<p>Consulate of Mexico in Yuma (Yuma County) 298 S. Main St. Yuma, AZ, 85364 (928) 343-0066 montiveros@sre.gob.mx</p>	<p>Centro de información y Asistencia a Mexicanos (CIAM) Call: 24 / 7 1-855 463 6395 From Mexico, Call: 001-520-623-7874</p>

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE CONSULATE GENERAL OF THE UNITED MEXICAN STATES IN
PHOENIX, THE CONSULATE GENERAL OF THE UNITED MEXICAN STATES
IN NOGALES, THE CONSULATE OF THE UNITED MEXICAN STATES IN
TUCSON, THE CONSULATE OF THE UNITED MEXICAN STATES IN
DOUGLAS AND THE CONSULATE OF THE UNITED MEXICAN STATES IN
YUMA AND THE ARIZONA DEPARTMENT OF CHILD SAFETY OF THE
UNITED STATES OF AMERICA REGARDING CONSULAR FUNCTIONS IN
CUSTODY PROCEEDINGS INVOLVING MEXICAN MINORS**

The Consulate General of the United Mexican States in Phoenix, the Consulate General of the United Mexican States in Nogales, the Consulate of the United Mexican States in Tucson, the Consulate of the United Mexican States in Douglas and the Consulate of the United Mexican States in Yuma (hereinafter "the Consulates") and the Arizona Department of Child Safety of the United States of America (hereinafter "DCS") jointly referred to as "the Parties";

CONSIDERING their interest in assuring the fulfillment of the rights set forth in the Consular Convention between the United Mexican States and the United States of America, 57 Stat. 800; Treaty Series 985 (hereinafter "Bilateral Convention"), and the Vienna Convention on Consular Relations, 21 U.S.T 77, T.I.A.S. No. 6820 (hereinafter "Vienna Convention");

BEARING IN MIND that both the Bilateral Convention and the Vienna Convention provide for consular notification and access in those cases where foreign nationals are involved in legal proceedings;

CONSCIOUS of the need to join efforts to treat, with special care, the high number of custody cases involving Mexican minors located in U.S. territory, through the development of a bilateral mechanism that facilitates the early identification of said minors, and assures the exercise of the consular function referred to in the Vienna Convention and the Bilateral Convention;

Have agreed as follows:

I. PURPOSE

The purpose of this Memorandum of Understanding ("MOU") is to establish the bases of coordination between the Parties to assure the exercise of the consular function set forth in the Bilateral Convention and the Vienna Convention, during custody proceedings involving Mexican minors.

II. APPLICABLE TREATIES

DCS recognizes that the Government of Mexico has the right to carry out consular functions to protect the interests of its nationals abroad, including those of minors, in the terms set forth in Article 5, paragraphs (a) and (h) of the Vienna Conventionⁱ.

DCS further recognizes its duty to communicate with the Consulates, without delay when relevant information is availableⁱⁱ, about any DCS custody proceeding involving Mexican minors, in accordance with Article 37 (b) of the Vienna Conventionⁱⁱⁱ.

Likewise, DCS recognizes that the Consulates have the right to interview, to communicate with, to visit and to assist^{iv} Mexican minors involved in DCS custody proceedings, in accordance with Article VI of the Bilateral Convention.^v

III. DEFINITIONS

For the purposes of this MOU:

- A. Pursuant to Arizona Revised Statutes (A.R.S.) § 8-201(9), "**Custodian**" means a person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of the juvenile court.

- B. **“DCS custody proceeding”** means an action taken by DCS resulting in DCS obtaining legal custody of a Mexican minor pursuant to A.R.S. Title 8, Chapter 4.
- C. **“DIF”** means the System for Integral Family Development. This is the agency in Mexico responsible for child protection.
- D. **“Mexican minor”** means any unmarried individual who is under the age of eighteen and that:
 - 1. Was born in Mexico; or
 - 2. Possesses Mexican nationality.

IV. PROVISIONS

To achieve the purpose of this MOU, the Parties agree to the following:

A. Ascertainment and Demonstration of the Minor’s Nationality

DCS shall determine the nationality of the minor at the time of taking custody of the minor, or when available information allows DCS to determine the nationality of the minor in DCS custody.

The DCS specialist responsible for the custody case shall obtain a certified copy of the minor’s U.S. birth certificate. When a minor is determined to meet the definition of a "Mexican Minor," the Consulates shall assist DCS, whenever possible, in obtaining the corresponding certified copy of the minor's Mexican birth certificate or a copy of the document stating that nationality was conferred to the minor by Mexico, in accordance with its national legislation.

B. Notification to the Corresponding Consulate

Pursuant to the Bilateral Convention and the Vienna Convention, DCS has the duty to notify the corresponding Consulate in writing, when:

- (a) DCS assumes the custody of a Mexican minor;
- (b) the parent or custodian of a Mexican minor in DCS custody requests that DCS notify the corresponding Consulate; or
- (c) DCS is aware that either parent of a minor in DCS custody resides in Mexico.

DCS shall notify the corresponding Consulate without delay when relevant information is available, if DCS has taken custody of a Mexican minor, or when the Mexican nationality of a minor in DCS custody is established. DCS shall use for this purpose the format attached in exhibit 1.

Likewise, DCS shall provide the parent or custodian of the Mexican minor with information on the consular services and assistance prescribed in the Vienna Convention and the Bilateral Convention, but only when the parent or custodian's contact information is available to DCS. Particularly, DCS shall provide the following:

- a. written information, in Spanish and English, about the custody proceeding before the Juvenile Court; and
- b. the address and telephone number of the Mexican Consulate located in whichever district the jurisdiction of the DCS case comes under the following:
 - i. The Consulate General of the United Mexican States in Phoenix services Maricopa, Apache, Coconino, Yavapai, Mohave, Gila, and Navajo Counties.
 - ii. The Consulate General of the United Mexican States in Nogales services Santa Cruz County.
 - iii. The Consulate of the United Mexican States in Tucson services Pima and Pinal Counties.
 - iv. The Consulate of the United Mexican States in Douglas services Cochise, Graham and Greenlee Counties.
 - v. The Mexican Consulate in Yuma services Yuma and La Paz Counties.

C. Initial Information to be Provided by DCS to the Consulates

For purposes of the notification referred to in paragraph (B), DCS shall provide the corresponding Consulate the following information, when available:

- (a) The full name of the Mexican minor (including both last names);
- (b) The date of birth of the Mexican minor;
- (c) The name of the parents or custodian(s) (including both last names); and
- (d) The name, phone number, and email address of the DCS specialist responsible for the custody case.

D. Confidentiality and Communication

The Parties shall abide by all state and federal laws regarding the confidentiality of DCS information, including the requirements of A.R.S. § 8-807.

The Parties may contact each other at any time, to obtain additional specific information regarding custody proceedings involving Mexican minors.

To achieve the objectives of this MOU, each Party shall designate a coordinator for providing information when it is not available through established channels, to ensure compliance with the provisions agreed upon by the Parties to this MOU. Coordinators may assemble whenever they consider it appropriate, to discuss any aspect of the cases addressed by this MOU.

E. Interview of a Mexican Minor

The consular officers, upon providing identification that verifies the officer's affiliation with the corresponding Consulate, shall have the right to interview the Mexican minor under DCS custody. To such effect, the DCS specialist responsible for the custody case, or the DCS specialist's designee, shall give consent for the interview to take place.

In order to arrange for an interview with a Mexican minor, the Consulates shall contact the DCS specialist in charge of the custody case.

F. Special Immigrant Juvenile Status

When a Mexican minor is under the custody of the State of Arizona and DCS determines:

1. That the minor is eligible to obtain the Special Immigrant Juvenile Status (SIJS), pursuant to INA, sec, 101 (a)(27)(j)(ii), 8 U.S.C. sec 1101 (a)(27)(J)(ii);
2. That applying for SIJS is in the minor's best interest; and
3. That DCS is the appropriate entity to assist or identify a volunteer organization to assist the minor with applying for SIJS;

The Consulates shall assist with the application process by obtaining and providing to DCS the necessary documentation from Mexico to complete the SIJS application.

G. Assistance Provided by DIF

Upon DCS notification to the corresponding Consulate regarding the custody of a Mexican minor, the Consulate shall contact DIF in order to procure the appropriate socio-economic home studies of families in Mexico who may be eligible to assume custody of a Mexican minor under custody of DCS. Upon receipt of the studies, the Consulates shall immediately transmit the information to the DCS specialist responsible for the custody case.

When custody of a Mexican minor is granted to a Mexican family, the Consulates shall take the necessary measures to coordinate with DIF, in order to carry out the repatriation of the minor to Mexico, procuring the minor's welfare, and providing the minor with all necessary services.

Once the minor is in Mexico, the Consulates shall coordinate with DIF to ensure that DIF (i) turns the Mexican minor over to the family assuming custody, and (ii) takes the necessary measures to assure the minor's welfare.

H. Witnesses

The Consulates and DCS shall work jointly to locate those people residing in Mexico who are required to appear before a Court in Arizona in connection with a custody proceeding involving a Mexican minor, in order to notify them, in a timely manner, of their required appearances.

I. Follow-up Mechanism

Consular Officers, the DCS coordinator, and any staff the coordinator deems necessary shall meet three (3) times a year in order to review issues arising from the application of this MOU. The Consuls and the DCS Director shall meet once (1) a year, and as necessary and requested, in order to evaluate the progress and development of this MOU.

Both Parties confirm their commitment to participate in joint meetings and to develop other information efforts. Both Parties shall participate in intervention and prevention activities without regard to the nationality of the families and children involved. In addition, the Consulates and DCS shall make every necessary effort to exchange, in a timely manner, ideas and opinions about high profile cases involving Mexican nationals that may come to the attention of the media.

Notwithstanding the provisions set forth in this MOU, the Parties acknowledge that the Consulates may contact, the DCS designated coordinator at any time. In addition, DCS shall endeavor to facilitate conversations DCS legal representation at the Office of the Attorney General upon request of the Consulates.

J. Procedures

DCS agrees to adopt the necessary procedures to comply with this MOU.

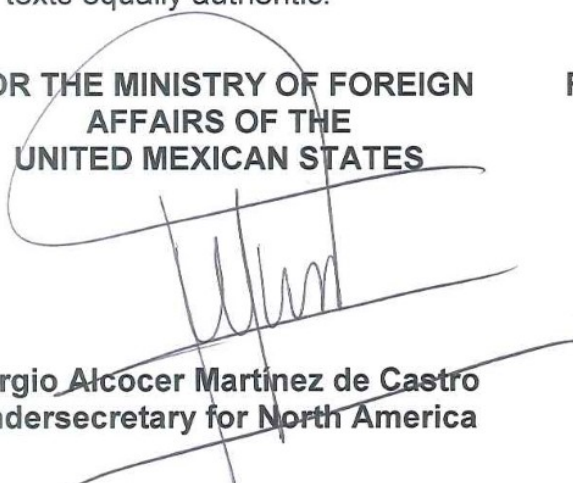
K. Final Provisions

This MOU shall come into force on the date it is signed by the Parties and shall remain in force for a period of twelve (12) months, automatically renewable for equal periods, unless either Party gives written notice to the Others of its intention to not renew it, at least sixty (60) days prior to the expiration of the current effective period.

Either Party may terminate this MOU at any time, by providing a ninety (90) days written notice to the others Parties.

Signed in duplicate, in the Spanish and English languages, being both texts equally authentic.

**FOR THE MINISTRY OF FOREIGN
AFFAIRS OF THE
UNITED MEXICAN STATES**



**Sergio Alcocer Martinez de Castro
Undersecretary for North America**

**FOR THE GOVERNMENT OF THE
STATE OF ARIZONA OF THE
UNITED STATES OF AMERICA**



**Douglas A. Ducey
Governor**

Place: MEXICO CITY
Date: JUNE 19th, 2015

Place: MEXICO CITY
Date: JUNE 19th, 2015

**FOR THE CONSULATE GENERAL OF
THE UNITED MEXICAN STATES
IN PHOENIX**

**FOR THE ARIZONA DEPARTMENT
OF CHILD SAFETY OF THE UNITED
STATES OF AMERICA**

**Roberto Rodríguez Hernández
Consul General of Mexico**

**Gregory McKay
Director**

Place: Phoenix
Date: August 10th, 2015

Place: Phoenix
Date: August 10th, 2015

**FOR THE CONSULATE GENERAL OF
THE UNITED MEXICAN STATES
IN NOGALES**

**Jaime Paz y Puente Gutiérrez
Consul General of Mexico**

Place: Nogales
Date: July 29th, 2015

**FOR THE CONSULATE OF THE
UNITED MEXICAN STATES
IN TUCSON**

**Ricardo Pineda Albarrán
Consul of Mexico**

Place: Tucson
Date: July 29th, 2015

**FOR THE CONSULATE OF THE
UNITED MEXICAN STATES
IN DOUGLAS**



**Jorge Ernesto Espejel Montes
Consul of Mexico**

Place: Douglas
Date: August 7th, 2015

**FOR THE CONSULATE OF THE
UNITED MEXICAN STATES
IN YUMA**



**Eusebio Augusto Romero y Esquivel
Consul of Mexico**

Place: Yuma
Date: July 31st, 2015

ⁱ Article 5 of the Vienna Convention provides in part that consular functions consist in:

“a) protecting in the receiving State (the United States of America) the interest of the sending State (the United Mexican States) and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
[...]

h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interest of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such persons”

ⁱⁱ The time of notification will be specified below.

ⁱⁱⁱ Article 37 of the Vienna Convention states in relevant part:

“If the relevant information is available to the competent authorities of the receiving state, such authorities shall have the duty:

(a) [omitted]

(b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the in the interest of a minor or other person lacking full capacity who is national of the sending state. The giving of information shall, however, be without prejudice to the operation of the laws and regulations of the receiving state concerning such appointments.” (*Emphasis added*)

^{iv} Procedures for notification will be specified below.

^v The Bilateral Convention expresses in Article VI that:

“1. Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the state by which they were appointed in the enjoyment of rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul or the consular officer stationed at the capital may apply directly to the Government of the country.

2. Consular officers shall, within their respective consular districts, have the right:

(a) to interview and communicate with the nationals of the State which appointed them;

(b) to inquire into any incidents which have occurred affecting the interest of the nationals of the State which appointed them;

(c) upon notification to the appropriate authority, to visit any of the nationals of the State which appointed them who are imprisoned or detained by authorities of the State; and

(d) to assist the nationals of the State which appointed them in proceedings before or relations with authorities of the State.

3. National of either High contracting Party shall have the right at all times to communicate with the consular officers of their country.”

SUPREME COURT OF THE STATE OF ARIZONA

FILED
OCT 19 1992
NOEL K. DESSAINT
CLERK SUPREME COURT
BY *llk*

IN THE MATTER OF)
ARIZONA JUDICIARY) **ADMINISTRATIVE ORDER**
SEXUAL HARASSMENT POLICY) **NO. 92 - 33**
_____)

Based upon the Arizona Constitution, Art. 6, § 3, authority of the Supreme Court to provide administrative supervision over all the courts of the State and as recommended by the Arizona Judicial Council,

IT IS ORDERED that the attached Arizona Judiciary Sexual Harassment Policy is adopted effective this date.

Dated the 19th day of October, 1992, at the Arizona Supreme Court, Phoenix, Arizona.

STANLEY G. FELDMAN
Chief Justice

Arizona Judiciary
Sexual Harassment Policy

Sexual harassment in any form will not be tolerated by the Arizona Supreme Court. Sexual harassment by judicial branch employees shall be grounds for disciplinary action, up to and including dismissal. Sexual harassment by judges shall be grounds for complaint to the Commission on Judicial Conduct pursuant to the rules of the Commission on Judicial Conduct. Sexual harassment by vendor employees shall be grounds for termination of vendor contracts.

Sexual harassment is sex discrimination which violates the individual rights of employees and state and federal law. Sexual harassment is also a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtones. Sexual harassment debilitates morale and interferes with productivity. Therefore, sexual harassment is unacceptable conduct in the workplace and will not be condoned.

Definition

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(29 Code of Federal Regulations 1604.11)

Duty to Report

Employees, applicants and other persons sexually harassed or having personal knowledge of sexual harassment by court employees or in court facilities are responsible for reporting such harassment in accordance with procedures applicable to each court. Employees are encouraged to report sexual harassment in a timely manner. Each employee has an affirmative duty to maintain a workplace free of sexual harassment and sexual intimidation. Any form of retaliation against an individual for reporting sexual harassment truthfully to the best of that employee's knowledge or for cooperating in an investigation of a sexual harassment complaint is prohibited and shall be grounds for severe disciplinary action. Any employee who knowingly or recklessly makes a false accusation of sexual harassment is likewise subject to disciplinary action up to and including dismissal.

Implementation

Judges and court administrators responsible for the administration of each court shall implement this policy individually or in conjunction with other courts or other governmental entities in the same county or jurisdiction by assuring procedures are in place which provide for the following:

1. Publication of this policy and corresponding procedures to every employee and in every court facility.
2. Multiple reporting options for persons complaining of sexual harassment.
3. Confidentiality of every complaint qualified by investigatory and disciplinary requirements.
4. Clear procedures for handling complaints which include informal and formal processes.
5. Formal investigation of non-judicial employees conducted by a trained investigator which includes interviews of all parties and all witnesses identified.
6. Referral to the Commission on Judicial Conduct for formal investigation of judges according to Commission rules.
7. Appropriate discipline following investigatory and disciplinary processes which are fundamentally fair to both the complainant and the subject of the complaint.
8. Prohibition of retaliation against the complainant and against a person who cooperates in a sexual harassment investigation and prohibition of knowing or reckless accusation against the subject of the complaint.

The required procedures shall be filed with and approved by the presiding judge of the superior court of the county in which each

court is located by June 1, 1993. Presiding judges shall report to the Supreme Court by July 1, 1993 regarding procedures which implement this policy.

Education

Presiding judges shall undertake to provide educational opportunities for judicial branch employees within their jurisdiction regarding this policy and regarding the characteristics of sexual harassment. Judges, managers and supervisors shall receive education which enables them to recognize sexual harassment and to take appropriate action pursuant to this policy and local procedures.

Arizona Judiciary

Policy Against Employment Discrimination and Harassment

Draft March 2018

I. POLICY STATEMENT

It is the policy of the Arizona Judicial Branch that discrimination and harassment, including sexual harassment, in the workplace is prohibited. Employment discrimination and harassment based on sex, race, color, religion, national origin, age, or disability is forbidden. Accordingly, harassment by judicial branch employees shall be grounds for disciplinary action, up to and including dismissal. Harassment by judges is grounds for action under the rules of the Commission on Judicial Conduct. Harassment by vendor employees shall be grounds for termination of vendor contracts.

It is the responsibility of every judge and court employee to strive to create a work environment free of harassment and discrimination. As required by the Code of Judicial Conduct and the Code of Conduct for Judicial Employees, all judges and court employees are expected to avoid bias, prejudice and harassment in the performance of their duties, to treat other court employees, court users, and the public with dignity and respect, and to comply with this policy.

Sexual harassment is sex discrimination which violates individual rights and state and federal law. Sexual harassment is also a form of misconduct which undermines the integrity of the employment relationship and of the court itself. All judges and court employees must be able to work in an environment that is free from unsolicited and unwelcome sexual overtures and innuendo. Sexual harassment debilitates morale and interferes with productivity. Therefore, sexual harassment is unacceptable conduct in the workplace.

A. DEFINITIONS

1. **Discrimination**

Discrimination is differing treatment of an individual, involving any term or condition of employment, based on that individual's race, color, religion, national origin, sex, age, or disability. Discrimination based on these protected classes is prohibited by state and federal law. Courts have held discrimination against an individual because of sexual orientation or because of gender identity, including transgender status, is discrimination because of sex in violation of Title VII.

2. **Harassment**

Harassment is verbal or physical conduct that is directed at an individual because of his or her race, color, religion, national origin, sex, age, or disability and that is sufficiently severe, pervasive, or persistent to have the purpose or effect of creating a hostile environment. Courts have held harassment of an individual because of sexual

orientation or because of gender identity, including transgender status, is harassment because of sex in violation of Title VII.

3. Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature when:

- a. Submission to that conduct or communication is made an explicit or implicit term or condition of obtaining or continuing employment.
- b. Submission to or rejection of that conduct or communication by an individual is used as a factor in employment decisions affecting the individual.
- c. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or of creating an intimidating, hostile, or offensive environment.

Sexual harassment may involve relationships of unequal power. Such situations might contain elements of coercion, such as when compliance with requests for sexual favors becomes a criterion for granting or denying privileges or for favorable or unfavorable treatment on the job; however, sexual harassment also might involve relations among peers, such as when repeated unwelcome advances or unwelcome sexual comments by one co-worker toward another co-worker has a harmful effect on the latter's ability to perform his or her job. Sexual harassment also might involve employee behavior directed at non-employees or non-employee behavior directed at employees. Sexual harassment may occur when it is directed at members of the opposite gender or when it is directed at members of the same gender.

II. DUTY TO REPORT

Employees, applicants, and other persons discriminated against or harassed or who have personal knowledge of discrimination or harassment by judges or court employees in the course of their duties or by anyone in court facilities are responsible for reporting such conduct in accordance with the procedures applicable to each court. Employees are encouraged to report discrimination and harassment promptly. Each employee has an affirmative duty to maintain a workplace free of discrimination, harassment, and intimidation. Any form of retaliation against an individual for reporting discrimination or harassment truthfully to the best of that person's knowledge or for cooperating in an investigation of discrimination or harassment is prohibited and shall be grounds for severe disciplinary action.

III. IMPLEMENTATION

Judges and court administrators responsible for the administration of each court shall implement this policy individually or in conjunction with other courts or other governmental entities in the same county or jurisdiction by adopting policies and procedures that are approved by the presiding judge of the county and contain, at a minimum, the following elements:

1. Effective dissemination of this policy and local procedures to every employee by such means as posting in areas highly visible to employees, publication on the court website, and inclusion in employee orientation materials and education materials on this subject.
2. An explanation of the prohibited conduct, including all forms of unlawful harassment, including race, color, gender (both sexual and non-sexual), age, national origin, disability, and religion.
3. A reporting system, available to persons who might experience discrimination or harassment and those who might observe discrimination or harassment, that provides multiple avenues to report in an easily accessible manner.
4. Referral to the Commission on Judicial Conduct for investigation of alleged misconduct of a judge.
5. Clear reporting and investigation procedures.
6. A prompt, thorough, and impartial investigation of employees conducted by a trained investigator.
7. A statement that any information gathered as part of an investigation will be kept confidential to the extent possible consistent with thorough and impartial investigative and disciplinary processes.
8. Assurance of immediate and appropriate corrective action and that the reporting and investigated employees will be informed of the investigation result.
9. Assurance that a reporting or witnessing employee will be protected from retaliation.

IV. EDUCATION

The Administrative Office of the Courts through its Education Services Division shall provide educational opportunities for judges and judicial branch employees regarding this policy statement. Presiding judges of each county shall ensure additional educational opportunities are offered for judges and judicial branch employees within their county regarding this policy and local policies and procedures. Judges, managers, and supervisors must receive education regarding their role and responsibility to identify discrimination and harassment and to take appropriate action pursuant to this policy and local procedures.

CODE OF CONDUCT FOR JUDICIAL EMPLOYEES

RULE 2.3 Bias, Prejudice, and Harassment

A judicial employee shall perform court duties without bias or prejudice and shall not manifest bias or prejudice by words or conduct, or engage in harassment in the performance of court duties. This includes but is not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation.

Comment

1. A judicial employee who manifests bias or prejudice in the conduct of court business impairs the fairness of the judicial process and brings the judiciary into disrepute.
2. Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; demeaning nicknames; negative stereotyping; attempted humor based upon stereotypes; threatening, intimidating, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. Facial expressions and body language and other forms of nonverbal communication may convey to parties and lawyers in the proceeding, jurors, the media, and others an appearance of bias or prejudice. A judicial employee must avoid conduct that may reasonably be perceived as prejudiced or biased.
3. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward a person on bases such as race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socio-economic status, or political affiliation.
4. Sexual harassment includes but is not limited to sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is unwelcome. See Arizona Supreme Court, Administrative Order 92-33 (Oct. 19, 1992), for the judiciary's sexual harassment policy.