

FOR YOUR INFORMATION

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Issue 20-04

Date: 03/09/20

HAGUE NOTICE & INTERNATIONAL NOTICING TIPS

This FYI is to inform staff of the new Hague Notice Requirements. It supercedes and cancels FYI's 10-46 and 10-78.

HAGUE NOTICE:

Per the case of *Jennifer O.* (2010) 184 Cal. App. 4th 539, the Office of County Counsel and the Department of Children and Family Services have a legal obligation to comply with the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters (Hague Service Treaty). This obligation applies when a biological, presumed, or alleged parent resides outside of the United States, even when the Dependency Court does not order a parent to be noticed.

Under the Hague Service Treaty, notice is required at two types of hearings:

- 1) Adjudication/Disposition - **IE** the parent(s) has not made a general appearance.
- 2) Termination of Rights per WIC 366.26 - When the recommendation is to terminate parental rights **and** the parent(s) has not made a general appearance.

Note: The Hague Service Treaty only applies when there is a known mailing address for a parent(s). If the mailing address is unknown, utilize normal notice procedures (i.e., due diligence, publication, etc.). Please be aware that recent case law (*In re D.R.* (2019)) suggests that sometimes a due diligence will not suffice. DCFS should also consider looking at social media, contacting relatives, and looking at relatives' social media to try to ascertain a parent's contact information to get a specific address.

Determining if a country is a part of the Hague Service Treaty:

Mexico, Argentina, Belize, Brazil, Colombia, Costa Rica, Nicaragua and Venezuela, are some of the countries that require Hague Notice. Guatemala, El Salvador, Honduras, and Panama do not. This is just a sampling of countries. Please email Lisa Huerta at: LHuerta@Counsel.lacounty.gov to determine if the country to which notice is to be sent is a part of the Hague Service Treaty.

Non-Hague Notice:

If the country is NOT a member of the Hague Service Treaty and a mailing address for the parent(s) is known, notice must be sent by international mail, return receipt requested, within the statutory timeframes, but also adding 20 days for service outside of the U.S. per California Rules of Civil Procedure.

Preparing Notice:

Hague notice for Mexico can be done through SNAP (see page 2 of these instructions). If Hague Notice is required for another country, please contact Lisa Huerta at: LHuerta@Counsel.lacounty.gov.



If you have any questions regarding this release please e-mail your question to:

Policy@dcfs.lacounty.gov

(right click to open footer section and access link)

HAGUE NOTICE CHECK LIST FOR MEXICO

When ordering a Hague Notice, the court shall set a hearing date six (6) months in the future from the date of the hearing in which the notice is ordered. This timeframe is necessary to allow for the notice to be generated and to be sent to the Mexican Central Authority (MCA). The MCA requires a minimum of four (4) months to attempt service of the notice, therefore, **CSWs must complete the following as soon as the hearing is set and Hague Notice is ordered:**

- Prepare a "Notice of Hearing on Petition" or "Notice of Hearing on Selection of a Permanent Plan – Juvenile" in Spanish and in English for that hearing using SNAP or CWS/CMS. Notices should be addressed to the parent in care of the MCA. SNAP will automatically populate the address field for the MCA, however, CWS/CMS will not. Please see the address below for the MCA.

CSWs are not required to send or translate the court report with the notices. Court reports should be sent directly to the parent(s) at his/her mailing address.
- Prepare the "Request for Service Abroad of Judicial or Extrajudicial Documents (USM-94 Form) in English.
- Create a PDF of the above documents and e-mail copies of them to **Effie Williams at ewilliams@counsel.lacounty.gov**.

Mexican Central Authority:

Secretaria de Relaciones Exteriores
Direccion General de Asuntos Juridicos
Plaza Juárez No. 20
Planta Baja Edificio Tlatelolco
Colonia Centro
Delegación Cuauhtémoc
C.P. 06010 Mexico, Distrito Federal

PROOF OF SERVICE

Once the MCA serves the parent(s), it is required by the Hague Service Treaty to return the Certificate that is a part of the Request for Service Abroad form. This Certificate becomes your Proof of Service. Notice is not complete simply because the Request for Service Abroad form and the notice were received by the MCA. Notice is **ONLY** proper after the MCA returns the Certificate. If the MCA fails to return the Certificate six (6) months after receiving the notice, under Article 15 of the Convention, service can be deemed to have occurred.

- After receiving the Certificate, submit it to the Dependency Court at the next hearing date. For assistance with Hague Notices, please contact:

Lisa Huerta at: LHuerta@Counsel.lacounty.gov
Effie Williams at: ewilliams@counsel.lacounty.gov



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