FOR YOUR INFORMATION

HAGUE NOTICE AND INTERNATIONAL NOTICING TIPS

This FYI supersedes and cancels FYI 20-04, Hague Notice & International Noticing Tips (dated 03/09/2020) and FYI 09-64, How to Translate Documents to Comply with the Hague Convention Treaty (dated 12/04/2009).

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 November 15, 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 (2) types of hearings:

Adjudication/Disposition — **IF** the parent(s) has not made a general appearance.

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.

- The Hague Service Treaty only applies when there is a known mailing address for a parent(s). If the mailing address is unknown, proceed with standard notice procedures (for example: 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 accounts 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, Belize, Colombia, Costa Rica, Venezuela, Nicaragua, and Brazil are some of the countries that require Hague notice. Guatemala, El Salvador, Honduras, and Panama are not. This is just a sampling of countries. Please email Lisa Huerta at LHuerta@Counsel.lacounty.gov to determine if the country where 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; the parent has an attorney so that Hague notice is no longer required; and/or the hearing type is anything other than an ADJ, DISP, or .26:
- Notice must be sent by international mail with return receipt requested (IMRRR) within the normal statutory timeframes, but adding twenty (20) days for mailing outside of the U.S. pursuant to California Code of Civil Procedure.
- Notice must be sent to the parent directly and not to any Central Authority.

- Notice under these circumstances can be sent directly by DCFS and does not need County Counsel's review or approval.

Preparing Notice:
Hague notice for Mexico can be done through SNAP (see page two of these instructions). If Hague notice is required for another country, please contact Lisa Huerta at LHuerta@Counsel.lacounty.gov.
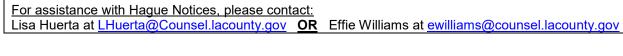
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HAGUE NOTICE CHECK LIST FOR MEXICO

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. The MCA will automatically reject notices that have dates less than four (4) months out, and since Hague notice is costly, County Counsel's office will also then reject notices that are not set at least four (4) months out. There also has been a delay due to the pandemic and shutdowns in 2020, so notice is actually taking anywhere from five (5) to six (6) months. 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 their mailing address.

☐ Prepare the "Request for Service Abroad of Judicial or Extrajudicial Documents (USM-94 Form) in English and Spanish.

☐ Create a PDF of the above documents and e-mail copies of them to Effie Williams: ewilliams@counsel.lacounty.gov

*Address of MCA:

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 within six (6) months after receiving the notice under Article 15 of the Convention, service can be deemed to have occurred. It is important to get the date of mailing from Effie Williams to determine the six (6) month date, because that date will be the date that the court can find Hague notice complete and proper, assuming nothing has been received back confirming actual service (the Certificate); rejecting the notice for some reason (not properly completed) or; indicating why notice could not be served (bad address, place is not a residence, etc.).

☐ After receiving the Certificate, submit it to the Dependency Court at the next hearing date, or submit whatever else has been received back, in order to show efforts towards notice, or indicate the date of mailing and the date that the court can find notice complete and proper if nothing is received back (you may need a brief continuance).

For assistance with Hague Notices, please contact:
Lisa Huerta at LHuerta@Counsel.lacounty.gov **OR** Effie Williams at ewilliams@counsel.lacounty.gov