

TEXAS WORKFORCE COMMISSION LETTER

ID/No:	WD 44-08
Date:	December 8, 2008
Keyword:	Child Care
Effective:	Immediately

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: Child Care Services: Documentation of a Child's Age, Citizenship, or Immigration Status

PURPOSE:

To provide Local Workforce Development Boards (Boards) with information and guidance on federal requirements to document the age, citizenship, or immigration status of children receiving Child Care and Development Fund (CCDF)-funded child care.

BACKGROUND:

Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, requires that providers of federal public benefits verify the citizenship or immigration status of all applicants for such benefits. CCDF is one of the federal programs subject to this provision. Program instruction ACYF-PI-CC-98-08, issued by the Administration for Children and Families (ACF) on November 25, 1998, clarifies that only the citizenship or immigration status of the child, who is the primary beneficiary of child care benefits, is relevant for implementing the verification requirements mandated by 8 U.S.C. §1642. The program instruction also states that nonprofit charitable organizations that determine eligibility for CCDF are exempt from verifying the child's citizenship or immigration status.

On May 2, 2008, ACF issued program instruction CCDF-ACF-PI-2008-01 clarifying that while nonprofit charitable organizations are exempt from the verification requirements, the Lead Agency is not exempt from its responsibility to ensure that only individuals eligible for services receive them. Further, if an audit or review determines that the citizenship or immigration status of a CCDF recipient was not properly verified, or that an ineligible recipient received CCDF assistance, such funds would be considered misspent and subject to disallowance.

Additionally, program instruction CCDF-ACF-PI-2008-01 states that Lead Agencies have flexibility to establish procedures for verifying citizenship or immigration status, but those procedures should be in accordance with U.S. Department of Justice (DOJ) requirements.

On November 25, 2008, the Texas Workforce Commission (Commission) approved proposed amendments to the Chapter 809 Child Care Services rules on verifying citizenship or immigration status.

This WD Letter is being issued in advance of the Chapter 809 adopted rule amendments in order to comply with the federal mandates outlined in program instructions ACYF-PI-CC-98-08 and CCDF-ACF-PI-2008-01.

Verification of a child's age is required under Commission rule §809.41, which states that a child must be under 13 years of age or, at the Board's option, under age 19 and physically or mentally incapable of caring for himself or herself, to receive child care services.

Review of the documentation in the November 17, 1997, DOJ Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 at <http://www.dhhs.gov/ocr/nationalorigin/interimguidance.pdf> indicates that a majority of the documents used to verify citizenship—such as birth certificates, baptismal records, hospital or public health birth records, or public assistance or social service records—also can be used to verify the child's age. Therefore, in many cases, verifying a child's citizenship or immigration status can be accomplished during the existing process for verifying the child's age.

PROCEDURES:

Boards must be aware that because the child is the primary beneficiary of CCDF-funded child care, only the child's citizenship or immigration status is subject to documentation.

NLF

Boards must ensure that appropriate staff uses only the documents listed in Attachment 1, as acceptable sources for documenting the age and citizenship or immigration status of a child receiving CCDF-funded child care. The list is based on the November 17, 1997, DOJ Interim Guidance.

NLF

Boards may request one document that provides both proof of the child's age and the child's citizenship or immigration status.

LF

Boards must be aware that documented receipt of Temporary Assistance for Needy Families, food stamp benefits, Medicaid, or other public assistance in which citizenship or immigration status is a requirement for eligibility is considered valid documentation of citizenship or immigration status.

NLF

Boards must ensure that appropriate documentation of the child's citizenship or legal immigration status, as well as age, as provided in Attachment 1, is retained in the child's case file.

NLF

Boards must be aware that for initial eligibility determinations, this WD Letter is effective 30 days after the date of issuance.

NLF

For children currently in care, Boards must ensure that the required citizenship or immigration status documentation is retained in the child's case file no later than the date of the child's eligibility redetermination.

NLF

Boards may accept photocopies of the documentation to expedite the eligibility process during the initial enrollment period.

LF

Boards must ensure that documentation of citizenship or immigration status is not required prior to placing a child on a Board's wait list.

NLF

INQUIRIES:

Direct inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENT:

Attachment 1: Acceptable Documents to Verify Child's Citizenship or Immigration Status and Age

RESCISSIONS:

None

REFERENCE:

U.S. Department of Health and Human Services, Administration for Children and Families,
ACYF-PI-CC-98-08 and CCDF-ACF-PI-2008-01
Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193,
as amended
Texas Workforce Commission Child Care Services Rules: 40 TAC, Chapter 809

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by "must" or "shall."

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by "may" or "recommend."