



ACF Administration For Children and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES	
	Office of Refugee Resettlement	
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PROGRAM INSTRUCTION

Subject: Age Determinations of Aliens in the Custody of HHS and DHS

Legal and Related: The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), Pub. L. No. 110-457, § 235(b)(4); Homeland Security Act of 2002, 6 U.S.C. § 279.

Purpose: The TVPRA of 2008 instructs HHS to devise age determination procedures for aliens in consultation with the U.S. Department of Homeland Security.

Typically, DHS is the agency that apprehends aliens, including unaccompanied alien children (UAC), while HHS is the agency responsible for care and custody of UAC. Each agency acknowledges the challenges in determining the age of aliens in custody. These challenges include, but are not limited to:

- Unavailable documentation
- Contradictory or fraudulent identity documentation and/or statements
- Physical appearance of the alien
- Diminished capacity of the alien

The TVPRA of 2008 requires the age determination procedures, at a minimum, to take into account multiple forms of evidence. Accordingly, under these procedures, each case must be evaluated carefully based on the totality of all available evidence, including the statement of the alien in question.

Unaccompanied Alien Children (UAC) in HHS Custody

HHS may make age determinations of UAC when they are in HHS custody.

In the event there is a discrepancy regarding the age of an alien in HHS custody, the HHS-funded care provider case worker shall immediately notify the HHS Federal Field Specialist (FFS). The FFS will make the age determination based on his/her review of the multiple forms

of evidence collected by the care provider. Until the age determination is made, the alien is entitled to all services provided to UAC in HHS care and custody.

There may be occasions when an alien's age is questioned at the time of admission to a HHS-funded care provider facility by a facility case manager who is completing the required intakes process. In that case, the intakes process is not to be completed and the HHS FFS shall be notified and consulted for making the age determination.

Instructions: Effective immediately, the following types of information will be sought as evidence, to conduct age determinations. Information from each category is not required.

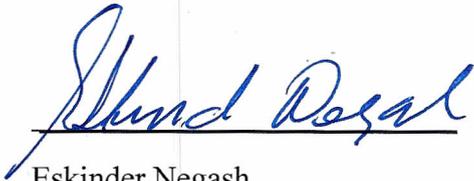
1. Documentation:
 - a. Official government-issued documents, including birth certificates. If the alien in question is not in possession of original documentation, or if the authenticity of the original documentation is in question, government officials of the alien's home country must be consulted in order to verify the validity of the documentation.
 - b. Other objective documentation (e.g. baptismal certificates, school records, medical records) that indicate the alien's date of birth.
2. Statements by individuals (including the alien) determined to have personal knowledge of the alien's age, and whom HHS concludes can credibly attest to the age of the alien.
 - a. Statements provided by the alien regarding his/her age or birth date. (Generally, an alien's uncorroborated declaration regarding age is not used as the sole basis for an age determination.)
 - b. Statements from the alien's parent(s) or legal guardian(s), if such persons can be identified and contacted.
 - c. Statements from other persons.
3. Information from another government agency (Federal, State, local or foreign).
 - a. State/local arrest records.
 - b. Child welfare agency records.
4. Medical age determination procedures (i.e. dental examinations, bone age determinations, such as hand wrist radiographs, etc.) may be used as a last resort if no other information is available. Ambiguous, debatable or borderline results will be resolved in favor of determining the alien as a minor (e.g. if the medical evaluation indicates an age range between 16 and 18 years of age, the alien will be designated as a 16 year old).
 - a. The examining doctor must submit a written report indicating the probability percentage that the alien is a minor or an adult.
 - b. The FFS supervisor must review the determination regarding the age.

All pertinent information (e.g. the information referenced, individuals or agencies consulted, statements, and conclusions) will be compiled and documented in a memorandum format and reviewed and approved by the FFS Supervisor. The FFS will forward the memo to the care provider facility case manager to be included in the alien's case file and to the ICE Detention and Removal Office (DRO) Field Office Juvenile Coordinator (FOJC) for inclusion in the alien's A-file.

At any time, an alien or his/her designated legal representative may present new information or evidence for re-evaluation of an age determination. New information will be forwarded to the Federal Field Specialist (FFS) for review. New information will be reviewed and evaluated by

FFS and if necessary, the FFS Supervisor, in a timely manner and shared with the Detention and Removal (DRO) Field Office Juvenile Coordinator (FOJC) to determine if current placement is appropriate. If the new information or evidence indicates a presumed UAC is actually an adult, then HHS will coordinate with the assigned FOJC to ensure an immediate transfer of custody to an adult DRO facility.

Inquiries: Maureen Dunn, Director, Division of Unaccompanied Children's Services, at 202-401-5523.

A handwritten signature in blue ink, appearing to read "Eskinder Negash", is written over a horizontal line.

Eskinder Negash
Director
Office of Refugee Resettlement