

This is an amendment to 8.8.2 NMAC, Sections 7, 9, 13, 21, and 27, effective xx/xx/2021.

8.8.2.7 DEFINITIONS:

- A.** “**Administrative hearing**” in PSD, administrative hearings are used in the circumstances described herein at Paragraphs (1) - (3) of Subsection B of 8.8.2.13 NMAC.
- B.** “**Administrative review**” is an informal process, which may include an informal conference or may include only a record review. The administrative review does not create any substantive rights for the client.
- C.** “**AFCARS**” refers to the federally-required automated foster care and adoptions reporting system. States are required to submit AFCARS data semi-annually. This includes case level information on all children in PSD custody, children who are adopted under the auspices of PSD, and information on foster and adoptive parents.
- D.** “**Child abuse and neglect check**” is a review of the PSD family automated client tracking system, also known as FACTS, or another state’s central abuse or neglect registry to determine if there have been any previous referrals on the family to this state’s or any other state’s child protective services division.
- E.** “**Children’s Code**” refers to the New Mexico Children’s Code, Section 32A-1-1, et. seq., NMSA 1978.
- F.** “**Client**” means a person who is receiving services from PSD.
- G.** “**Communicable disease**” means any infectious disease that is both potentially communicable through common social or sexual contact and poses a significant health risk if contracted.
- H.** “**Criminal records check (CRC)**” as discussed herein, means federal, state or local checks for criminal offenses conducted on PSD employees as well as volunteers and students working in a PSD office. The level of CRC depends on duties performed, as per 8.8.2.22 NMAC herein. Requirements for CRC in reference to foster or adoptive parents are outlined in “Licensing Requirements for Foster and Adoptive Homes,” 8.26.4.10 NMAC.
- I.** “**CYFD**” refers to the children, youth and families department.
- J.** “**FACTS**” refers to the family automated client tracking system (FACTS), the official data management system for CYFD.
- K.** “**NCANDS**” refers to the national child abuse and neglect data system (NCANDS), a voluntary national data collection and analysis system created in response to the requirements of the Child Abuse Prevention and Treatment Act.
- L.** “**Need to know**” is the standard by which individual(s) are identified as required to receive confidential information, based upon risk of transmission of a specific disease.
- M.** “**NYTD**” refers to the national youth in transition (NYTD) database, a national data collection and analysis system created in response to the requirements of the Foster Care Independence Act of 1999.
- N.** “**Policies**” are those regulations that govern CYFD activities and have the force of law.
- O.** “**Procedures**” direct PSD staff in how to implement policies.
- P.** “**Protective services division (PSD)**” refers to the protective services division of the children, youth and families department, and is the state’s designated child welfare agency.
- Q.** “**Provider**” refers to foster care and adoptive families.
- R.** “**RMS**” means random moment sample and is the process used by CYFD to collect information to support claims for reimbursement from the state and federal funding sources.
- S.** “**SACWIS**” means the statewide automated child welfare information systems (SACWIS), a comprehensive automated case management tool that supports foster care and adoptions assistance case management practice. FACTS is the state of New Mexico’s SACWIS system.
- T.** “**Secretary**” means the secretary of CYFD.
- U.** “**Stipend students**” are students in an undergraduate or graduate social work program in New Mexico who have been selected to receive stipends to support their education in return for working for PSD for a specified period of time.

V. “Supervision” is the formal, professional relationship in which the supervisor has oversight responsibility of the work duties and work life of the designated supervisee. Supervision is to be provided under the three functions of the supervisory framework.

W. “Supervisor” is an individual within the agency that are identified as responsible for assigned employee’s execution of job duties within the agency.

X. “Supervisee” is the employee assigned and reports directly to their designated supervisor.

~~[V.]~~ Y. “Universal precautions” are the standardized protocols for the prevention of communicable disease.

~~[W.]~~ Z. “Vendor” refers to individuals or businesses from which PSD purchases goods and services for the needs of our clients.

[8.8.2.7 NMAC - Rp, 8.8.2.7 NMAC, 03/31/2010; A, 02/29/2012; A; xx/xx/2021]

8.8.2.9 LEGAL AUTHORITY AND GUIDELINES: PSD and its contractors shall provide services and issue licenses and certifications in accordance with federal and state constitutional, statutory and regulatory requirements, without regard to [~~race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity~~] race; ethnicity; creed; color; age; religion; sex or gender; gender identity; gender expression; sexual orientation; marital status or partnership; familial or parental status; pregnancy and breastfeeding or nursing; disability; genetic information; intersex traits; medical condition, including HIV/AIDS; citizenship or immigration status; national origin; tribal affiliation; ancestry; language; political affiliation; military or veteran status; status as a survivor of domestic violence; sexual assault, or stalking; or any other non-merit factor in accordance with law.

[8.8.2.9 NMAC - Rp, 8.8.2.10 NMAC, 03/31/2010; A, xx/xx/2021]

8.8.2.13 ADMINISTRATIVE REVIEWS AND APPEALS: PSD shall provide a client with either an administrative review or an administrative hearing to appeal a PSD decision, as outlined below. The outcome of an administrative review or hearing is final except as otherwise provided by law or these policies.

A. Administrative review:

(1) An administrative review shall be used in the following instances:

- (a) removal of foster children when the children have been in placement with the family for longer than six months;
- (b) removal of adoptive children prior to finalization;
- (c) denial of a [~~foster home~~] resource family license application;
- (d) denial of the [~~foster~~] resource family’s request to adopt foster children placed in their home, if the children have been placed with the foster family for longer than six months;
- (e) denial of transition support services;
- (f) the substantiation of an abuse or neglect investigation unless the issue is in litigation in a pending children’s court case;
- (g) the substantiation of a past abuse or neglect investigation that has been revealed by a present criminal record check where the records fails to show that PSD provided notice or an opportunity for a review, unless the issue was litigated in a children’s court case; or
- (h) denial of certification as an independent investigator or adoption counselor.

(2) A client seeking an administrative review shall request the review in writing to PSD within ten days of the action or notice of the proposed action.

(3) The decision to initially place children with an adoptive family is not subject to an administrative review, but is made at PSD’s sole discretion.

B. Administrative hearing: An administrative hearing shall be used only in the following instances:

- (1) the revocation, suspension, or non-renewal of a foster home licensed by PSD (as specified in 8.26.4 NMAC);

(2) the denial, non-renewal, probation, suspension, or revocation of a child placement agency license (as specified in 8.26.5 NMAC); or

(3) the substantiation of an abuse or neglect investigation after it has been upheld in an administrative review, unless the issue is in litigation in a pending children's court case.

C. PSD shall comply with the administrative appeals process governed by 8.8.4 NMAC, Administrative Appeals.

D. A client seeking an administrative hearing shall request the hearing in writing to the PSD director's office within 10 days of the action or notice of proposed action.

[8.8.2.13 NMAC - Rp, 8.8.2.17 NMAC, 03/31/2010; A, 04/29/11; A, 02/29/2012]

8.8.2.21 QUALIFICATIONS AND TRAINING OF STAFF: Protective services division staff shall meet minimum qualifications as determined by their positions and job functions, and participate in formal pre-service and annual training as required by CYFD.

A. All PSD staff shall be trained in their legal duties to protect the constitutional and statutory rights of children and families from the initial time of contact, during the investigation and throughout the provision of services.

B. All PSD staff shall receive training in carrying out the provision of services to children and families in a manner that is respectful of race; ethnicity; creed; color; age; religion; sex or gender; gender identity; gender expression; sexual orientation; marital status or partnership; familial or parental status; pregnancy and breastfeeding or nursing; disability; genetic information; intersex traits; medical condition, including HIV/AIDS; citizenship or immigration status; national origin; tribal affiliation; ancestry; language; political affiliation; military or veteran status; status as a survivor of domestic violence; sexual assault, or stalking; or any other factor.

~~[B.]~~ C. Protective services supervisors and county office managers shall receive training in supervision as soon as possible of commencing supervision or employment as a supervisor or county office manager.

~~[C.]~~ D. All PSD field staff child protective services social and community services coordinators shall receive formal pre-service training as soon as possible after employment. Staff shall not be assigned primary case assignment until they have completed all pre-service training requirements, including on the job training.

~~[D.]~~ E. All PSD field staff, supervisors, and county office managers shall participate in in-service training as required by PSD management.

[8.8.2.21 NMAC - Rp, 8.8.2.26 NMAC, 03/31/2010; A, 02/29/2012; A; xx/xx/2021]

8.2.2.27 CYFD SUPERVISORY FRAMEWORK: New Mexico's children, youth and families department seeks to ensure quality supervision is provided to staff across all child welfare services and managerial levels within protective services that aligns with the mission and values of the agency, as well as to ensure that supervisory practice is conducted within the mandatory framework. The supervisory framework includes educational, administrative and supportive functions. The following statements reflect the agency's best practice standards regarding families, how the case process should work, where children should live, working in teams, importance of families' culture, collaboration and partnerships.

A. Regarding families, best practices include:

(1) children, youth, young adults and parents are the experts on their own lives, are motivated to recognize their strengths and needs, and must have a lead role in working toward change that matches their developmental abilities;

(2) caseworkers must base their relationships with children, youth, young adults and parents on mutual trust and respect, using open, honest, skillful, informed and transparent communication;

(3) networks of support (extended family, other fictive kin and naturally occurring support systems) and all resource families are vital to the wellbeing and success of the people served by the New Mexico CYFD;

(4) it is essential to maintain parent, sibling, and extended family connections through frequent family visitation in safe and natural settings;

(5) children, youth, young adults, and parents are full partners who bring a unique perspective that must be heard and valued; as such, CYFD strives to engage them in all aspects of practice and system improvements.

B. Regarding how the case process should work, best practices include:

(1) effective practice is strength-based using assessments and case plans to build on the strengths of children, youth, young adults, parents and communities in a collaborative, solution-focused way;

(2) practice is individualized and assessments, services, and supports enhance and address each person's strengths and needs;

(3) frequent and purposeful contacts, and visits by caseworkers, support families in achieving their goals;

(4) when interventions and culturally appropriate services are limited or not available, caseworkers and leadership must work collaboratively with families and communities to identify creative solutions that resolve the need;

(5) child welfare staff and providers must receive the training and support needed to ensure best practice, and caseload assignments that permit the integration of guiding values and beliefs in their daily work.

C. Regarding where children should live, best practices include:

(1) children, youth and young adults need to remain safely at home in their families and communities whenever possible;

(2) services must occur in the least restrictive, most family-like setting appropriate for the child's and family's needs;

(3) when children are placed in out-of-home care, placements should be with relatives or fictive kin, geographically close to their family, with siblings safely placed together;

(4) when non-kin caregivers must be used, they should be licensed, competent, informed, supported, and promote permanency for the child or youth;

(5) children, youth, and young adults need and deserve a permanent family;

(6) children at risk of disruptions should receive services as soon as possible to stabilize placements;

(7) congregate care is an intervention for behavioral or mental health challenges, services must match the needs of the child, youth or young adult and be provided for only as long as necessary.

D. Regarding working in teams, best practices include:

(1) the team process values multiple perspectives and is often capable of creative and high quality decision-making than an individual;

(2) assessments, completed in partnership with children, youth, young adults, and parents, need to include suggestions and contributions from the full family team;

(3) children, youth, young adults, and family team members provide valuable ideas for identifying resources, keeping children and youth safe, reviewing progress on the service plan, and recognizing what is needed;

(4) staff are the agencies greatest asset and all staff members in the agency play a part in supporting staff retention;

(5) creating a culture that nurtures creative and critical thought, embraces diversity, and unites the agency's shared skills, knowledge, and experience in support of one team is vital.

E. Regarding the importance of families' culture, best practices include:

(1) children, youth, young adults, and parents have the right to define and be understood within the contact of their own culture;

(2) the agency strives to eliminate racial and ethnic disparities and dismantle structural inequity experienced by children, youth, young adults, and parents;

(3) the agency has a responsibility to convey information and implement services in a manner that is developmentally, culturally, and linguistically appropriate and respectful;

(4) Native American families are entitled to receive active efforts to prevent the removal of their children and to reunify them if separation is necessary. Staff play a crucial role in ensuring that Native American families receive the support needed to keep their families intact through skilled case interventions.

E. Regarding collaboration and partnership, best practices include:

(1) the agency supports a collaborative approach to coordinating care and services with individuals, families, providers, systems, and community stakeholders;

(2) collaboration with all divisions, across all levels, strengthens our practice and expands the services and supports available to meet the needs of children, youth, young adults, and parents;

(3) the agency commits to working with community stakeholders to reduce disproportionality and disparities within the child welfare system, including outreach and engagement strategies to share information, obtain feedback, solicit buy-in, share resources and develop collaborative solutions with the broader community;

(4) the use of disaggregated data is key to assessing needs and ensuring the equitable distribution of child welfare resources across communities to reduce disproportionality and disparities.

[8.8.2.28 N; xx-xx-2020]