

State of New Mexico

CHILDREN, YOUTH and FAMILIES DEPARTMENT

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PROGRAM INSTRUCTION GUIDELINE 03-2021-#6

TO: All PSD Staff

FROM: Annamarie Luna, Acting Protective Services Division Director

DATE: March 19, 2021

RE: RE-ISSUE of Previous PIG Regarding Revision to Placement Procedure PR 11 – Resource Family Bill of Rights and Grievance Process

This is a “Re-Issuance” of the Program Instruction Guideline (PIG) 12-20-#11, that was released on December 23, 2020. This re-issuance replaces the PIG 12-20-#11 issued on December 23, 2020.

Effective March 19, 2021: The purpose of this Program Instruction Guideline (PIG) is to update all staff of a new process for Resource Families to file a grievance with the Department.

If a Resource Family feels at any point during their licensure they had their “*Resource Family Bill of Rights*” violated, or feel retaliated against, they reserve the right to file a grievance with the Department and have it reviewed in a timely manner. The following procedures have been updated in Placement Procedures.

In addition to the procedures, attached you will find the “*Resource Family Request to File Grievance*” form. All documents will be uploaded to the intranet under the PIG folder (<http://cyfweb/ps/index.html>) and are also available to Resource Parents on <https://cyfd.org/>.

If you have any questions regarding this process, please contact the PSD Policy & Procedure Coordinator, Serra.Dittel-Payne@state.nm.us.

SOCIAL SERVICES

FOSTER CARE AND ADOPTION

PLACEMENT SERVICES PROCEDURE (8.26.2)

PR 11: RESOURCE FAMILY BILL OF RIGHTS AND GRIEVANCE PROCESS

- 1 ISSUING AGENCY:** Children, Youth and Families Department (CYFD) Protective Services Division (PSD) [10-15-2009]
- 2 EFFECTIVE DATE:** March 19, 2021. [10-15-2009; 09-29-2015; 03-15-2016; 03-19-21]
- 3 CORRESPONDING POLICY:** 8.26.2.11 NMAC
- 4 OBJECTIVE:** To implement PSD’s policy on zero tolerance for retaliation and provide information to the resource families on grievances. [10-15-2009; 03-19-21]

5 INFORMATION PROVIDED TO RESOURCE FAMILIES: Sharing of information with Resource Families is a continuous process. Resource Families shall have access to current CYFD policies and procedures. CYFD will notify Resource Families of the Resource Family Grievance Process through (a) social media; (b) CYFD.org; (c) embedding details of the process in the agreement CYFD provides to every Resource Family upon child placement. Also, the child's PSD Worker provides the Resource Family updated information regarding the child's social, medical, psychological, and educational needs, and provides updated information regarding the status of the child's case. Once a child is placed with the Resource Family, the child's PSD Worker ensures they receive copies of medical/behavioral health records, dental records, educational records, all past allegations of abuse or neglect involving the child, and other relevant information so the family is robustly informed about the child/ren within a reasonable time from placement. The PSD Worker informs the Resource Family that all information regarding the child in care and the child's family is confidential pursuant to the New Mexico Children's Code, Section 32A-4-33 NMSA. Once a child is placed with the Resource Family, the PSD Worker schedules an "Icebreaker" meeting between the child's family and the Resource Family to establish consistent communication and information sharing. Disagreements are part of the collaborative process. Teams strive to continually share information without fear of retaliation. Retaliation will not be tolerated by CYFD employees.

In addition, the PSD Worker:

1. Will share records or information about the social, medical, psychological, or educational needs of a child in PSD custody to a Resource Family who is considering a child for placement to make an informed decision regarding the placement.
2. Will provide updated information regarding the status of a child's case to the resource family, upon request of any confidential records or information concerning the child's social, medical, psychological, or educational needs pursuant to the New Mexico Children's Code 32A-4-33 NMSA 1978.
3. Will inform resource parents of their right to receive notice of and be heard at any court proceeding held with respect to the child placed in the home.
4. Provide each resource parent with a copy of the "*Resource Family Bill of Rights and Grievance Process.*" [10-15-2009; 03-15-2016; 03-19-21]

6 RESOURCE FAMILY BILL OF RIGHTS: Prior to full licensure, the child's PSD Worker will provide the Resource Family with a copy of the "*Resource Family Bill of Rights and Grievance Process,*" which is located at CYFD.org and on social media. The PSD Worker will review the "*Resource Family Bill of Rights and Grievance Process*" and "*Memorandum of Agreement for Resource Families*" with the family prior to full licensure. The Resource Family will sign the "*Memorandum of Agreement for Resource Families*" as an acknowledgment of receipt of the "*Resource Family Bill of Rights and Grievance Process.*" [03-19-21]

6.1 Bill of Rights: Resource Families have the following rights:

1. Resource Families have the right to be treated with dignity, respect and consideration as integral members of the child welfare team.
2. Resource Families have the right to be notified of scheduled meetings concerning a child in their care in order to actively participate in the case planning and treatment process, unless the child is 14 or older, at which point, they may make

their own decision on who attends and participates in their case plan as described in the Youth Bill of Rights.

3. Resource Families have the right to provide input concerning the plan of services for the children in their care and to have that input given full consideration, in the same manner as information presented by any other member of the team, without fear of retaliation.
4. Resource Families have the right to communicate about the child/ren in their care with professionals who work with the child/ren including, but not limited to, their Guardian Ad Litem/Youth Attorney, therapists, physicians and school personnel, without fear of accusation of violating the Confidentiality Code or retaliation.
5. Resource Families have the right to receive a written copy of the child's treatment and service plans and any subsequent revisions on a timely basis.
6. Resource Families have the right to receive the completed Child Specific Placement Agreement within 24 hours of the time the child in care is placed in their home.
7. Resource Families have the right to be given pre-service training and appropriate ongoing training, including upon request training relevant to the needs of the child in their care.
8. Resource Families have the right to be informed of, and have access to, all agency policies and procedures related to their role as resource families and related to any child for whom they provide substitute care.
9. Resource Families have the right to a fair, timely and impartial investigation concerning referrals filed against them, and access to a fair and impartial appeal process free from retaliation, pursuant to CYFD policy and procedure. The result of any referral or investigation will be provided to the resource family in writing and within 15 days of its conclusion.
10. Resource Families have the right to be free from acts of harassment and retaliation by CYFD staff.
11. Resource Families have the right to emergency access to CYFD staff on twenty-four hour, seven days per week basis. These CYFD staff have access to individual children's records and are specifically trained to support resource families in emergencies.
12. Resource Families have the right to report misconduct by CYFD employees, service providers, or contractors and to have such reports initiated and investigated within 10 days of the report. CYFD shall take immediate action to remedy any action taken against a resource parent in retaliation for exercising their rights under this section.
13. Resource Families have the right to expect and rely upon the fact that CYFD's decisions regarding them and the children placed in their care will be in compliance with state and federal law.
14. Resource Families have the right to be notified when a child in their care has a case scheduled to be reviewed by the Substitute Care Advisory Council (SCAC). Resource families have the right to participate when a child in their care has a case reviewed by the Substitute Care Advisory Council (SCAC).

15. Resource Families have the right to receive adequate prior written notice of, and an opportunity to be heard at, court hearings regarding a child in their care, as provided by law.
16. Resource Families have the right to submit factually based written statements to court, as provided by law.
17. Resource Families have the right to be informed of and receive available support services for a child in their care, as provided by CYFD policy and procedure.
18. Resource Families have the right to be notified and considered as a placement option when a child formerly in their home reenters the foster care system.
19. Resource Families have the right to receive full and timely financial reimbursement commensurate with the care and needs of the child, as provided by CYFD policy and procedure. Timely is defined as within 30 days of the resource family's request for reimbursement.
20. Resource Families have the right to reasonable assistance from CYFD in dealing with loss and separation when a child in their care leaves their home.
21. Resource Families of children with a plan of adoption placed in their home have the right to priority consideration as adoptive parents of those children, if relatives have not been identified or are not viable placements.
22. Resource Families have the right to confidentiality regarding personal issues, as provided by law.
23. Resource Families have the right to full disclosure of all medical, psychological and behavioral issues of children in their care, as provided by CYFD policy and procedure, and nothing in the Confidentiality Code shall be understood to require otherwise.
24. In matters concerning licensing, Resource Families have the right to be free from discrimination based on religion, race, color, creed, sexual orientation, national origin, age, marital status or physical disabilities. [03-19-21]

7 RESOURCE FAMILY GRIEVANCE PROCESS: If the Resource Family feels at any point during their licensure they had their rights violated or they feel retaliated against they have the right to file a grievance with the department and have it reviewed in a timely manner. [03-19-21]

7.1 Who can make a grievance? Any licensed Resource Family may file a grievance with the department. [03-19-21]

7.2 Subject of a Resource Family Grievance: A Resource Family may file a grievance if they witness any policy/procedure violations by PSD staff on their case or when they feel any rights listed in the "*Resource Family Bill of Rights*" have been violated (see paragraph 6.1 above) or they feel they have been retaliated against.

Any issues regarding denials, suspensions, revocation, or non-renewal of licenses shall follow Licensing Standards for Foster and Adoptive Home Procedures for an Administrative Hearing process (*see PR 20—Denial, Revocation, Suspension and Non-Renewal of Resource Family Licenses in 8.26.4 Licensing Standard Procedures*). [03-19-21]

7.3 How to file a grievance: The Resource Family may follow the following steps if they are first unable to resolve the conflict informally between their PSD Worker and supervisor. When a Resource Family feels their rights have been violated the following steps take place:

1. Step One — CYFD Constituent Affairs Involvement: If the Resource Family is unable to informally resolve the grievance at the County level, they may choose to file a formal grievance with the CYFD Office of Constituent Affairs. CYFD Constituent Affairs reviews the complaint and provides a finding to the resource family, designated Regional Manager, and county office within 15 business days from the receipt of the complaint. The Regional Manager reviews the results and ensures the findings and resolution are implemented within the county office.
2. Step Two— Office of the Inspector General Involvement: If the Resource Family does not believe the grievance has been resolved they can file a request for review by the Office of the Inspector General (OIG) under the Office of the Secretary. The request must be filed within 10 days of the response from Constituent Affairs. OIG shall review the grievance and may take actions such as interviewing the individuals involved with the grievance and reviewing other documents and records. When conducting a review, the OIG shall have free, immediate, and complete access to records maintained by CYFD, its divisions, and any successor agencies or divisions, and by its contractors for children’s placements and services. In order to review the grievance, OIG shall also have free, immediate, and complete access to the staff of CYFD, its contractors for children’s placements and services, and other individuals that OIG deems relevant to their work. CYFD shall direct all employees and contract providers to cooperate fully with OIG and shall assist OIG in gaining free access to other stakeholders in the child welfare system if needed. OIG may also request information from the Office of Constituent Affairs related to their review.
 - a) Submit a Written Request: Resource Families must complete the “*Request to File Grievance*” form, located on the intranet and on the Resource Family Portal. Once this form is completed, Resource Families e-mail their request and supporting documents (including the information from steps one and two) to the Office of Constituent Affairs. Within two business days of receipt of the written request, the Office of Constituent Affairs reviews the request to ensure the criteria meets a grievance and notifies the Resource Family they have received the grievance and will conduct a review.

OIG must provide a finding to the Resource Family and copy CYFD Constituent Affairs on the grievance within 30 business days of receipt of the grievance.
 - b) Review of Findings: OIG provides their findings to CYFD Constituent Affairs and the Resource Family. CYFD Constituent Affairs then provides the OIG finding to:
 - i) PSD Director;
 - ii) PSD Field Deputy Director;
 - ii) PSD Regional Manager;
 - iii) PSD County Office Manager;
 - iv) PSD Supervisor; and

- v) Resource Family's PSD Caseworker (may be a Placement Worker or Permanency Planning Worker).
- c) Grievance Resolution: If actions are recommended in the findings by OIG, the Regional Manager ensures OIG's findings and recommendations are carried out and provides a written response to the Resource Family, CYFD Constituent Affairs, and OIG within five business days of receiving the findings, reporting on the timeframe for implementation of each of OIG's recommended actions. The Regional Manager provides a subsequent response in writing to the resource family, CYFD Constituent Affairs, and OIG within 30 days of receiving OIG's findings, verifying that implementation of the SCAC's recommended actions is complete.
- d) Disagreement with Recommendation or Outcome: The findings from the OIG are final. Nothing in this grievance process shall prevent a resource family from seeking legal remedy, if appropriate, when the grievance process did not satisfy or resolve the dispute. [03-19-21]

7.4 Ongoing Evaluation: Quarterly meetings between the OIG, Constituent Affairs, and CYFD will take place to discuss grievance trends observed or any other issues experienced with the grievance process. [03-19-21]