

TITLE 8 SOCIAL SERVICES
CHAPTER 10 CHILD PROTECTIVE SERVICES
PART 2 PROTECTIVE SERVICES INTAKE

8.10.2.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD), Protective Services Division (PSD).
[8.10.2.1 NMAC - Rp, 8.10.2.1 NMAC, 03/31/10]

8.10.2.2 SCOPE: Protective services employees and the general public.
[8.10.2.2 NMAC - Rp, 8.10.2.2 NMAC, 03/31/10]

8.10.2.3 STATUTORY AUTHORITY: Children, Youth and Families Department Act, 9-2A-7 D, NMSA 1978; New Mexico Children’s Code, Section 32A-1-1, NMSA 1978 (2009 Cum. Supp.)
[8.10.2.3 NMAC - Rp, 8.10.2.3 NMAC, 03/31/10]

8.10.2.4 DURATION: Permanent.
[8.10.2.4 NMAC - Rp, 8.10.2.4 NMAC, 03/31/10]

8.10.2.5 EFFECTIVE DATE: March 31, 2010, unless a later date is cited at the end of a section.
[8.10.2.5 NMAC - Rp, 8.10.2.5 NMAC, 03/31/10]

8.10.2.6 OBJECTIVE: To establish provisions for accepting reports of alleged child abuse or neglect.
[8.10.2.6 NMAC - Rp, 8.10.2.6 NMAC, 03/31/10]

8.10.2.7 DEFINITIONS:

A. “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.

B. “Children’s Code” refers to the New Mexico Children’s Code, Section 32A NMSA 1978.

C. “Child vulnerability” refers to the child’s ability to protect him or herself from identified safety threats as well as the child’s ability to care for himself or herself when the child’s parent or guardian is not able to meet the child’s basic needs.

D. “Collateral contact” refers to any person who may be able to provide information to the PSD worker during an investigation of alleged abuse or neglect, concerning the alleged abuse or neglect that would be helpful in assessing child vulnerabilities, safety threats and protective capacities.

E. “Custodian” as defined in the Children’s Code, Section 32A-1-4(E) NMSA 1978 means an adult with whom the child lives who is not a parent or guardian of the child.

F. “CYFD” is the New Mexico children, youth and families department.

G. “FACTS” refers to the family automated client tracking system (FACTS), the official data management system for CYFD.

H. “Guardian” as defined in the Children’s Code, Section 32A-1-4(I) NMSA 1978, means a person appointed as guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law.

I. “Impending danger” is when a child is living in a state of danger or position of continual danger due to a family circumstance or behavior. The threat caused by the circumstance or behavior is not presently occurring, but it can be anticipated to have severe effects on a child at any time.

J. “Indian child” means any unmarried person who is under age 18 and is either a member of an Indian tribe, or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

K. “Intake” refers to the process by which intake workers receive, screen and prioritize reports of alleged child abuse or neglect.

L. “Parent” as defined in the Children’s Code, Section 32A-1-4(P) NMSA 1978, includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child.

M. “**Placement**” is an out of home residential arrangement for the care of children in PSD custody, which may include, but is not limited to family foster care, relative foster care and treatment foster care, or a facility such as residential treatment center, group home, or emergency shelter.

N. “**Present danger**” means immediate, significant and observable severe harm or threat of immediate and severe harm that is presently occurring to a child and requires an immediate protective services response.

O. “**Prioritization**” is the assignment of a time frame for PSD to initiate an investigation based upon the reported safety threats to the child, the age of the child and the protective capacities identified in the report (See herein at 8.10.2.13 NMAC).

P. “**Protective capacities**” are those assets possessed by the caregiver that help reduce, control or prevent present or impending danger of serious harm to a child.

Q. “**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.

R. “**PSD custody**” means custody of children as a result of an action occurring pursuant to the Children’s Code, Sections 32A-4-1 and 32A-3B-1 NMSA 1978.

S. “**Report**” is a verbal or written presentation of information alleging child abuse or neglect that is received by an intake worker.

T. “**Reporter**” refers to any individual who has contacted statewide central intake (SCI) to make a report of alleged child abuse or neglect.

U. “**Safe Haven for Infants Act**” means an Act, Section 24-22-1 NMSA 1978, to promote the safety of infants and to immunize a parent from criminal prosecution for leaving an infant, 90 days of age or less, at a safe haven site. This Act is not intended to abridge the rights or obligations created by the federal Indian Child Welfare Act of 1978 or the rights of the parents.

V. “**Safe haven site**” as defined by Section 24-22-2 (F) NMSA 1978 means a hospital, law enforcement agency, or fire station that has staff onsite at the time an infant, 90 days of age or less, is left at such site.

W. “**Safety threats**” are threats of serious harm to a child that may create a present or impending danger.

X. “**Screened in report**” is a report that has met PSD’s criteria for acceptance for investigation.

Y. “**Screened out report**” is a report that has not met PSD’s criteria for acceptance for investigation.

Z. “**Statewide central intake (SCI)**” is the unit within PSD whose responsibilities may include, but are not limited to receiving and screening reports of alleged child abuse or neglect and prioritizing and assigning accepted reports to the appropriate county office for investigation.

AA. “**Witness**” refers to a person who has a firsthand account of an event that is relevant to a PSD abuse and neglect investigation.

[8.10.2.7 NMAC - Rp, 8.10.2.7 NMAC, 03/31/10; A, 02/29/12; A, 09/29/15]

8.10.2.8 PURPOSE OF INTAKE SERVICES: The purpose of child protective services intake is to:

A. receive reports of alleged child abuse or neglect;

B. determine if the situation reported may constitute abuse or neglect as defined by the Children’s Code, Sections 32A-4-2(B) and 32A-4 (E) NMSA 1978;

C. determine if an investigation by PSD and a referral to another agency is warranted; and

D. receive reports of incidents involving children in placements and determine if such reports warrant an investigation.

[8.10.2.8 NMAC - Rp, 8.10.2.8 NMAC, 03/31/10; A, 02/29/12]

8.10.2.9 ELIGIBILITY:

A. Any child up to age 18, shall be eligible for protective services intake.

B. All individuals are required by the Children’s Code, Section 32A-4-3(A) NMSA 1978 to report suspected child abuse or neglect to SCI or law enforcement if he or she knows, or has a reasonable suspicion that a child has been abused or neglected.

[8.10.2.9 NMAC - Rp, 8.10.2.9 NMAC, 03/31/10; A, 02/29/12; A, 09/29/15]

8.10.2.10 PROVISION OF INTAKE SERVICES:

A. PSD intake workers shall be available to receive reports of suspected child abuse or neglect 24 hours a day, seven days a week, including reports involving suspected abuse or neglect of children in placement.

- B. PSD intake workers shall accept reports from individuals wishing to remain anonymous.
 - C. Intake services shall be conducted by CYFD employees designated as PSD intake workers.
 - D. PSD intake workers shall collect sufficient information from the reporter in order to make a screening decision.
 - E. PSD intake workers shall assign a priority to screened-in reports as outlined in 8.10.2.13 NMAC.
 - F. PSD intake supervisors shall review all screening and prioritization decisions.
 - G. Once approved by the PSD intake supervisor, the intake worker shall assign screened-in, prioritized reports to the appropriate county office for investigation within the timelines established by PSD.
 - H. Designated PSD intake workers may complete a national crime information center (NCIC) check on alleged perpetrators of child abuse or neglect.
- [8.10.2.10 NMAC - Rp, 8.10.2.10 NMAC, 03/31/10; A, 02/29/12]

8.10.2.11 PROTECTION OF THE IDENTITY OF REPORT SOURCES: PSD workers shall ask the source if he or she wishes that her identity be kept confidential. If so, the reporter's name will be entered as anonymous and PSD shall protect the identity or identifying information of reporting sources and shall not disclose the reporter's identity, absent the consent of the reporter or a court order.

[8.10.2.11 NMAC - Rp, 8.10.2.11 NMAC, 03/31/10; A, 02/29/12]

8.10.2.12 INTAKE SCREENING DECISION:

- A. PSD intake workers make screening decisions on all reports received. Screening decisions will be made on all reports within established time frames.
 - B. PSD intake workers shall use information received from the reporting source, information from collateral contacts as available, and results of the abuse and neglect check to assist in making the intake screening decision.
 - C. PSD intake workers shall ask the reporting source for contact information and will inform the reporting source of the intake screening decision, if so requested by reporting source.
- [8.10.2.12 NMAC - Rp, 8.10.2.12 NMAC, 03/31/10; A, 02/29/12]

8.10.2.13 PRIORITIZATION: Subject to the review and approval of the PSD intake supervisor, the intake workers shall prioritize accepted reports as follows:

- A. Emergency report (E): A report alleging a serious and immediate safety threat involving a vulnerable child, including but not limited to an abandoned infant or child, any physical injury to an infant, a potentially life threatening situation, recent sexual abuse, a law enforcement request for immediate response, and recent serious trauma, such as a head injury, burns, or broken bones. An emergency report requires that an investigation be initiated within three hours of the SCI supervisor's screening decision.
 - B. Priority one report (P1): A report alleging physical injury involving a vulnerable child who is in a safe environment at the time of the report, or a report alleging a serious impending safety threat involving a vulnerable child but where the alleged perpetrator will not have access to the child for the next 24 hours. A priority one report requires that an investigation be initiated within 24 hours of the SCI supervisor's screening decision.
 - C. Priority two report (P2): A report alleging an impending safety threat involving a vulnerable child with no immediate concern for the child's safety. This may include, but is not limited to, alleged physical abuse with no indication of injury or alleged abuse or neglect where the alleged perpetrator no longer has access to the child or a protective parent or guardian has already intervened. A priority two report requires that an investigation be initiated within five calendar days of the SCI supervisor's screening decision.
 - D. Custody of a safe haven infant: When SCI receives a report that an infant has been left under the provision of the Safe Haven Act at a safe haven site, as defined above at 8.10.2.7 NMAC, the children, youth and families department through its protective services division is deemed to have emergency custody of that infant. Law enforcement is not notified and a law enforcement investigation or 48 hour hold is not required.
- [8.10.2.13 NMAC - Rp, 8.10.2.13 NMAC, 03/31/10; A, 02/29/12; A, 09/29/15]

8.10.2.14 CROSS REPORTING AND NOTIFICATION:

- A. PSD intake workers shall cross report all reports to the appropriate law enforcement agency pursuant to the New Mexico Children's Code Section 32A-4-3(B) NMSA 1978.
- B. When the alleged perpetrator of abuse or neglect is not a parent or guardian, for example a coach, schoolteacher, or neighbor, PSD workers shall receive the information from the reporting source and shall inform the reporter that it will refer the allegation to the appropriate local law enforcement agency.

C. When the report received involves an Indian child on the reservation or pueblo, PSD intake workers shall immediately transmit the information to the appropriate tribal authority, such as tribal law enforcement or tribal social services.

D. When SCI receives a report alleging abuse or neglect of a child residing in a facility, or a child not in custody residing outside of their home, the intake worker shall screen out the report and email the report to the CYFD licensing and certification authority and to the CYFD office of inspector general.
[8.10.2.14 NMAC - Rp, 8.10.2.14 NMAC, 03/31/10; A, 02/29/12; A, 09/29/15]

8.10.2.15 HIGH PROFILE CASE, SERIOUS INJURY AND CHILD FATALITIES: SCI shall initiate an internal notification protocol within CYFD when a SCI supervisor has determined a report involves a serious injury, child fatality or may be a high profile case.
[8.10.2.15 NMAC - N, 09/29/2015]

8.10.2.16 DOCUMENTATION REQUIREMENTS FOR INTAKE:

A. PSD intake workers shall make a record of all reports received regarding alleged child abuse or neglect.

B. PSD shall maintain records of all reports as follows:
(1) Screened out reports shall be maintained for one year after date of last activity concerning client, as required by Subsection D of 1.18.690.31 NMAC.

(2) Accepted reports shall be maintained as part of the investigation case record for 18 years after case closure, as required by Paragraph (2) of Subsection D of 1.18.690.30 NMAC.
[8.10.2.16 NMAC - Rp, 8.10.2.15 NMAC, 09/29/15]

HISTORY OF 8.10.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

SSD Rule #410.0000, Protective Services to Children, filed 11/10/81;
SSD 4.0.0, Child Protective Services - Definition and Goal Statement, filed 8/22/86;
SSD 4.0.0, Child Protective Services - Definition and Goal Statement, filed 3/28/89;
SSD 4.1.0, Child Protective Services - General Provisions, filed 8/22/86;
SSD 4.1.0, Child Protective Services - General Provisions, filed 1/29/87;
SSD 4.1.0, Child Protective Services - General Provisions, filed 6/18/87;
SSD 4.1.0, Child Protective Services - General Provisions, filed 3/28/89;
SSD 4.1.0, Child Protective Services - General Provisions, filed 9/14/89;
SSD 4.1.0, Child Protective Services - General Provisions, filed 9/18/90;
SSD 4.2.0, Child Protective Services - General Guidelines, filed 8/22/86;
SSD 4.2.0, Child Protective Services - General Guidelines, filed 3/28/89;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 8/22/86;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 11/18/87;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 6/13/88;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 3/28/89;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 3/20/90;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 9/18/90.

History of Repealed Material:

8 NMAC 10.2, Protective Services Intake, filed 6/16/97 - Repealed effective 7/30/04.
8.10.2 NMAC, Protective Services Intake, filed 7/16/04 - Repealed effective 11/15/05.
8.10.2 NMAC, Protective Services Intake, filed 11/1/05 - Repealed effective 3/31/10.
8.10.2 NMAC, Protective Services Intake, filed 3/31/10- Repealed effective 9/29/2015.