

TITLE 8 SOCIAL SERVICES
CHAPTER 10 CHILD PROTECTIVE SERVICES
PART 9 YOUTH SERVICES

8.10.9.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD), Protective Services Division (PSD).
[8.10.9.1 NMAC - Rp, 8.10.9.1 NMAC, 3/31/10]

8.10.9.2 SCOPE: PSD employees and the general public.
[8.10.9.2 NMAC - Rp, 8.10.9.2 NMAC, 3/31/10]

8.10.9.3 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 (Cum. Supp. 2009).
[8.10.9.3 NMAC - Rp, 8.10.9.3 NMAC, 3/31/10]

8.10.9.4 DURATION: Permanent.
[8.10.9.4 NMAC - Rp, 8.10.9.4 NMAC, 3/31/10]

8.10.9.5 EFFECTIVE DATE: March 31, 2010, unless a later date is cited at the end of a section.
[8.10.9.5 NMAC - Rp, 8.10.9.5 NMAC, 3/31/10]

8.10.9.6 OBJECTIVE: To establish standards and practices for the provision of services to older youth aged 14 or older in protective services division custody who are likely to age out of foster care at age 18, youth who have aged out from foster care at age 18, and youth who were adopted from foster care after the age of 16; to promote the safety of the youth, promote positive youth development; and assist the youth in successfully transitioning into adult living.
[8.10.9.6 NMAC - Rp, 8.10.9.6 NMAC, 3/31/10; A, 9/29/15]

8.10.9.7 DEFINITIONS:

A. "Case plan" means a plan created jointly with clients for a child, youth, parent, guardian, custodian or respondent that identifies the appropriate services based on the needs identified to achieve the child's or youth's permanency plan and to promote the safety and well-being of each child or youth.

B. "Chafee Act" refers to the John H. Chafee Foster Care Independence Act of 1999, which allows states to provide services and funds to youth likely to age out of foster care, youth adopted after the age of 16 from the foster care system, and youth who have aged out of foster care at the age of 18.

C. "Discharge hearing" is a hearing required by the New Mexico Children's Code, Section 32A-4-25.3 NMSA 1978, which takes place at the last judicial review or permanency hearing held prior to the youth's 18th birthday. At the discharge hearing the court reviews the youth's transition plan and determines whether or not PSD has made reasonable efforts to meet the requirements outlined in the New Mexico Children's Code, Section 32A-4-25.3(B) NMSA 1978. (See herein at 8.10.9.17 NMAC)

D. "Education and training voucher (ETV) program" is a Chafee Act program that provides financial assistance to eligible youth who are enrolled in an accredited post-secondary educational setting.

E. "FACTS" is the family automated client tracking system, PSD's information management system.

F. "Fictive kin" is a person not related by birth or marriage who has an emotionally significant relationship with the child.

G. "Foster care provider" refers to a person or entity licensed by CYFD, licensed by another state's child welfare agency, or a licensed child placement agency to provide foster care services including respite, non-relative, relative, or treatment foster care.

H. "Leaders uniting voices youth advocates of New Mexico" or "LUVYANM" is a non-governmental youth advocacy and advisory board composed of youth from around the state that represent current and former foster care youth. The board evaluates policies and practices of the child welfare system and advocates for system improvements. LUVYANM educates other youth, resource families, child welfare workers and the general public on issues related to youth in foster care.

I. "Life skills" are the skills that a youth must develop to safely transition into adulthood, as identified in the independent living assessment discussed herein at 8.10.9.10 NMAC.

J. “**National youth transition database (NYTD)**” is a database, required by the Chafee Act. It tracks and reports on both services provided to and outcomes for older youth.

K. “**Permanency planning worker (PPW)**” has primary responsibility for youth in custody and works in collaboration with the youth transition specialist (YTS) (herein defined at Subsection T of 8.10.9.7 NMAC) to promote the safety, permanency and well-being for the youth, promote positive youth development, and assist the youth in successfully transitioning into adult living.

L. “**Planned permanent living arrangement (PPLA)**” is a permanency plan established by the court for a youth in PSD custody who is age 16 or older once reunification, adoption, permanency guardianship and placement with a fit and willing relative have been ruled out.

M. “**Positive youth development**” is a set of practices in working with youth to provide the necessary supports as they build their capacities and strengths to meet their personal and social needs. Youth are viewed as partners in working toward a successful transition to adulthood.

N. “**PSD**” refers to the protective services division of the children, youth and families department, and is the state’s designated child welfare agency.

O. “**PSD custody**” means custody of children as a result of an action filed under the New Mexico Children’s Code, Sections 32A-4-1 or 32A-3B-1 NMSA 1978.

P. “**Start-up funds**” are funds available through the Chafee Act to assist eligible youth in purchasing the household items and services needed to establish a home or to support the youth’s transition into adulthood.

Q. “**Sex or human trafficking**” consists of a child or youth who may have experienced being recruited, solicited, enticed, harbored, exploited or transported by another person whose intent is to exploit or use force, fraud, manipulation or coercion to subject the child or youth into labor, services or sexual activity.

R. “**Transition plan**” refers to the plan developed with the youth prior to the youth’s 17th birthday to identify a youth’s needs, strengths and goals in the areas of safety, housing, education, employment or income, physical and mental health, local opportunities for mentors and continuing support services.

S. “**Youth**” for the purposes of 8.10.9 NMAC, means youth age 14 and older in the legal custody of PSD through and abuse and neglect petition or family in need of services petition filed under the New Mexico Children’s Code, Sections 32A-4-1 or 32A-3B-1 NMSA 1978.

T. “**Youth services**” means any independent living or transition service arranged or provided by a YTS (in collaboration with permanency planning services) to a youth in custody, a youth who has aged out of foster care at age 18, or a youth who was adopted after the age of 16 in order to promote the safety of the youth, promote positive youth development, and assist the youth in successfully transitioning into adult living.

U. “**Youth transition specialist (YTS)**” is a PSD worker who works in conjunction with the PPW with regard to all youth in custody age 14 or older, including youth age 18 who remain under the jurisdiction of the court, and youth who were adopted at age 16 and older. The YTS has primary responsibility for youth who have aged out of foster care at age 18 and are working with PSD on a voluntary basis.

[8.10.9.7 NMAC - Rp, 8.10.9.7 NMAC, 3/31/10; A, 9/29/15]

8.10.9.8 PURPOSE OF YOUTH SERVICES:

A. Youth services shall:

- (1) assist youth in successfully transitioning into adult living;
- (2) promote self-sufficiency;
- (3) promote the safety, permanency and well-being of youth;
- (4) promote positive youth development; and
- (5) promote relationships with mentors and other supportive adults.

B. Youth services shall be provided to youth in custody, youth who have aged out of foster at age 18, and youth who were adopted from foster care after the age of 16.

[8.10.9.8 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.9 ELIGIBILITY FOR YOUTH SERVICES:

A. Youth services shall be provided to all youth in the custody of PSD through an abuse or neglect petition, or a family in need of court ordered services petition, including youth in residential treatment or incarcerated youth, runaway youth and youth with a partial or complete developmental, emotional or physical disability.

B. Eligibility requirements according are specific to services components within the youth services program. See 8.10.9.18-21 NMAC herein for eligibility requirements related to the specific service components.

[8.10.9.9 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.10 INDEPENDENT LIVING ASSESSMENT:

- A.** All youth age 14 and older in PSD custody shall complete the initial independent living assessment (IL assessment) with his or her PPW.
- B.** The initial IL assessment consists of two components:
 - (1) the Casey life skills assessment; and
 - (2) a current psychosocial history focused on the youth's strengths and goals.
- C.** The PPW shall prepare a written summary of the IL assessment. A copy of the IL assessment and summary are provide to the youth and his or her foster care provider.
- D.** A re-assessment shall be conducted every 18 months until the youth is dismissed from custody or ages out of foster care. The PPW may conduct or a youth may request a re-assessment at any time.
- E.** PSD shall complete a screening to determine whether a referral for adult protective services shall be warranted for youth age 16 and older.

[8.10.9.10 NMAC - N, 3/31/10; A, 09/29/15]

8.10.9.11 LIFE SKILLS PLAN: The life skills plan shall be developed to assist the youth in successful transition to adulthood by establishing goals and addressing strengths and needs as a result of the IL assessment.

A. The life skills plan shall be included as part of the case plan for each youth aged 14 and older in PSD custody. PSD shall present the life skills plan to the court prior to the first hearing after the youth's 14th birthday and every subsequent hearing, regardless of the youth's permanency plan. The case plan shall be developed using the result of the IL assessment and in consultation with the youth, and at the option of the youth, with up to two members of the case planning team who are chosen by the youth and who are not a foster parent of, or a caseworker for the youth. PSD may reject an individual selected by the youth to be a member of the case planning team at any time PSD has good cause to believe that individual would not act in the best interest of the youth. An individual selected by the youth to be a member of the youth's case planning team may be designated to be the youth's advisor, and as necessary, the youth's advocate with respect to the application of the reasonable and prudent parent standard to the youth. The PPW shall also solicit input from the YTS, the youth attorney, and the youth's foster care provider.

B. The life skills plan shall identify the activities, tasks, and services needed for the youth to develop the life skills necessary to safely transition into independent living as an adult regardless of whether the youth is reunified. The plan shall contain specific time frames and responsibilities for each activity included.

C. The plan shall be included in the youth's case plan and is reviewed by the court at every judicial review or permanency hearing.

[8.10.9.11 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.12 LIFE SKILLS DEVELOPMENT:

A. Life skills development shall be required for all youth in PSD custody regardless of permanency plan beginning no later than age 14. Life skills development is an individualized process of learning the knowledge and skills necessary to be successful in living as an adult. It may include, but is not limited to group learning, taking advantage of teachable moments, individual practice with out-of-home providers, and use of community resources.

B. The YTS shall assist each youth age 14 and older in obtaining a copy of his or her credit report at no cost to the youth. This process shall be completed on an annual basis until the youth is discharged from foster care.

[8.10.9.12 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.13 TRANSITION SUPPORT SERVICES: Transition support services shall be provided by or arranged by the YTS for the purpose of preparing and assisting youth in their transition to adulthood. Services begin at the preparation for the transition meeting and may continue until the youth turns 21 years of age. Youth in PSD custody shall be eligible for transition support services. Youth who have aged out of foster care at age 18 and youth 18 and 21 years of age who were adopted after the age of 16 may request transition support services.

[8.10.9.13 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.14 YOUTH LEADERSHIP SKILLS: PSD shall identify opportunities for youth in PSD custody to develop leadership skills including, but not limited to membership in LUVYANM, participation in the annual independent living youth conference, training and public speaking. Youth who have aged out of foster care at age 18, and youth who were adopted after the age of 16 may request to participate in youth leadership skills

development opportunities.
[8.10.9.14 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.15 YOUTH TRANSITION MEETING (YTM): Pursuant to the New Mexico Children's Code, Section 32A-4-25.2.A NMSA 1978, PSD shall conduct a transition meeting for each youth in custody prior to the youth's 17th birthday. The meeting shall include the youth, the YTS, the PPW and the youth attorney. The youth may choose to invite other participants, such as biological family members or foster care providers. The purpose of the meeting is to develop the youth's transition plan. (See 8.10.9.16 NMAC below.)
[8.10.9.15 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.16 TRANSITION PLAN:

- A.** Pursuant to the New Mexico Children's Code, Section 32A-4-25.2 A, B and C NMSA 1978, a written individualized transition plan shall be developed collaboratively with the participants present at the YTM.
 - B.** The transition plan shall identify a youth's needs, strengths and goals in the areas of safety, housing, education, employment or income, health and mental health, local opportunities for mentors and continuing support services. The plan shall identify activities, responsibilities and timeframes to address the goals specified in the transition plan.
 - C.** Pursuant to the New Mexico Children's Code, Section 32A-4-25.2 B and C NMSA 1978, PSD shall present the transition plan to the court at the first hearing scheduled after the child's 17th birthday. The court shall order the transition plan for the child. The transition plan approved by the court shall be reviewed at every subsequent review and permanency hearing.
 - D.** The YTS shall review and update the youth's transition plan with the youth at least once, one month prior to the youth's 18th birthday.
- [8.10.9.16 NMAC - Rp, 8.10.9.11 NMAC, 3/31/10; A, 9/29/15]

8.10.9.17 DISCHARGE HEARING:

- A.** Pursuant to the New Mexico Children's Code, Section 32A-4-25.3 NMSA 1978, at the last judicial review or permanency hearing held prior to the youth's 18th birthday, the court shall conduct the youth's discharge hearing.
 - B.** At the discharge hearing the court shall review the youth's transition plan and determines whether or not the PSD has made reasonable efforts to:
 - (1) provide the youth with written information concerning the youth's family history, the whereabouts of any sibling, if appropriate, and education and health records;
 - (2) provide the youth with his or her health insurance information, medical, education and health records;
 - (3) provide the youth with his or her social security card, certified birth certificate, driver's license or state-issued identification card, death certificate of a parent and proof of citizenship or residence;
 - (4) assist the youth in obtaining medicaid, unless the youth is ineligible; and
 - (5) refer the youth for guardianship or limited guardianship if the youth is incapacitated.
 - C.** If the court finds that PSD has not made reasonable efforts regarding all of the requirements in Paragraphs (1) - (5) of Subsection B of 8.10.9.17 NMAC above, and that termination of jurisdiction would be harmful to the young adult, the court may continue to exercise its jurisdiction for up to one year after the youth's 18th birthday, provided the youth consents.
- [8.10.9.17 NMAC - N, 3/31/10; A, 9/29/15]

8.10.9.18 INDEPENDENT LIVING PLACEMENT STATUS (ILPS): Independent living placement status allows an eligible youth to become his or her own vendor to receive monthly maintenance payments. The maintenance payment allows the youth to live as a boarder with a foster parent or to live independently with limited PSD supervision regarding safety and appropriate use of funds.

- A.** A youth age 18 up to age 21 who has aged out of foster care at age 18 may be eligible for an independent living placement as determined by the YTS with supervisory approval.
- B.** With the approval of the regional manager and the youth services bureau chief, a youth age 17 in PSD custody may be eligible for ILPS, with the monthly maintenance payment provided with state general funds.
- C.** To assess whether ILPS is appropriate for a youth age 17, the PPW shall review the IL assessment and all other relevant information and determine whether:
 - (1) the youth has the basic skills necessary to safely live independently; and

(2) sufficient supports are available to the youth while living independently.

D. The PPW shall prepare a memorandum for decision to the regional manager and youth services bureau chief about whether ILPS is appropriate for a youth age 17, discussing the IL skills assessment and describing the housing the youth will secure.

E. Eligibility for ILPS is reassessed on a continuing basis and may be revoked at PSD's discretion.

F. Under no circumstance, may a youth in custody on runaway status simultaneously be on ILPS.
[8.10.9.18 NMAC - Rp, 8.10.9.13 NMAC, 3/31/10; A, 9/29/15]

8.10.9.19 START-UP FUNDS: Start-up funds shall be available for eligible youth to assist them in purchasing household items or services needed to establish a home or to further independence. Expenses which are eligible for the use of start-up funds are determined according to the standards of the Chafee Act.
[8.10.9.19 NMAC - Rp, 8.10.9.14 NMAC, 3/31/10; A, 9/29/15]

8.10.9.20 EDUCATION AND TRAINING VOUCHERS (ETV): ETV funds shall be available to eligible youth to assist them in obtaining post-secondary education or vocational training. ETV may not cover expenses already paid by scholarships, grants, loans, work study, etc. Receipt of ETV funds shall not affect a student's eligibility for other federal assistance. ETV funds shall be paid to the provider and shall not be distributed through personal checks payable to the youth. The assigned YTS shall assist the youth in filling out the necessary application and gathering the appropriate supporting documentation.
[8.10.9.20 NMAC - Rp, 8.10.9.15 NMAC, 3/31/10]

8.10.9.21 MEDICAID: Youth age 18 up to 26 who were in foster care and enrolled in medicaid on their 18th birthday shall be eligible for medicaid according to the provisions of the Affordable Care Act. Before the youth's 18th birthday, or upon the youth's request for medicaid benefits, the youth shall complete and sign the application for medicaid. The youth shall complete a new application and submit it to the YTS each year thereafter.
[8.10.9.21 NMAC - Rp, 8.10.9.16 NMAC, 3/31/10; A, 9/29/15]

8.10.9.22 PREVENTING, IDENTIFYING AND REPORTING SEX AND HUMAN TRAFFICKING AND REPORTING RUNAWAYS:

A. PSD shall identify, document, and determine appropriate services for children or youth who have disclosed or who may be at risk of being the victim of human trafficking.

B. PSD shall immediately, but not later than 24 hours, notify law enforcement of children or youth who PSD has identified as victims of sex or human trafficking.

C. PSD shall make reasonable efforts to locate children or youth missing from foster care, including determining factors that led to the child or youth being absent from foster care and assessing the child or youth's experience while absent from foster care, including whether the child or youth is a victim of sex or human trafficking.

D. PSD shall report immediately, but no later than 24 hours, after receiving information on missing or abducted children or youth to law enforcement authorities for entry into national crime information center (NCIC) database of the federal bureau of investigation.

E. PSD shall report immediately, but no later than 24 hours, after receiving information on missing or abducted children or youth to the national center for missing and exploited children.
[8.10.9.22 NMAC - N, 9/29/15]

8.10.9.23 NATIONAL YOUTH IN TRANSITION DATATBASE (NYTD): NYTD is a database required by the federal Chafee Act which tracks and reports on services provided to and outcomes for older youth. To ensure that data is accurately maintained for purposes of meeting NYTD requirements, the PPW shall update medical and education information in FACTS. Both the PPW and YTS shall document all services provided to the youth. The YTS shall work with the youth to complete the NYTD survey within 45 days of the youth's 17th birthday and at ages 19 and 21.
[8.10.9.23 NMAC - Rp, 8.10.9.22 NMAC, 9/29/15]

HISTORY OF 8.10.9 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the State Records Center and Archives under: SSD Rule #411.0000 Substitute Care, 11/10/81;

SSD 5.0.0, Substitute Care for Children - Definition and Goal Statement, 8/22/86;
SSD 5.1.0, Substitute Care for Children - General Provision, 8/22/86;
SSD 5.1.0, Substitute Care for Children - General Provision, 1/29/87;
SSD 5.1.0, Substitute Care for Children - General Provision, 6/18/87;
SSD 5.1.0, Substitute Care for Children - General Provision, 3/28/89;
SSD Rule #410.5400, Substitute Care for Children General Guidelines, 9/17/81;
SSD 5.2.0, Substitute Care - General Guidelines, 8/22/86;
SSD 5.2.0, Substitute Care - General Guidelines, 1/29/87;
SSD 5.2.0, Substitute Care - General Guidelines, 6/18/87;
SSD 5.2.0, Substitute Care - General Guidelines 3/28/89;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 8/22/86;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 1/29/87;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 6/18/87;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 6/14/88;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 8/22/88;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 9/18/90;
SSD 5.3.0, Substitute Care for Children - Department Responsibilities, 3/15/91;
SSD Rule #412.0000, Youth Services - Definition and Goal Statement, 11/10/81;
SSD 6.0.0, Youth Services - Definition and Goal Statement, 11/10/81;
SSD 6.0.0, Youth Services - Definition and Goal Statement, 8/22/86;
SSD 6.1.0, Youth Services - General Provisions: Youth Services, 8/22/86;
SSD 6.1.0, Youth Services - General Provisions: Youth Services, 1/29/87;
SSD 6.1.0, Youth Services - General Provisions: Youth Services, 6/18/87;
SSD 6.1.0, Youth Services - General Guidelines, 8/22/86;
SSD 6.1.0, Youth Services - General Guidelines, 8/22/86.

History of Repealed Material:

8 NMAC 10.9, Independent Living Program, filed 6/16/97 - Repealed effective 2/14/01.
8.10.9 NMAC, Independent Living Program, filed 2/1/01 - Repealed effective 11/15/05.
8.10.9 NMAC, Independent Living Program, filed 11/1/05 - Repealed effective 8/15/07.
8.10.9 NMAC, Independent Living Program, filed 8/15/07 - Repealed effective 3/31/10