

**TITLE 8            SOCIAL SERVICES**  
**CHAPTER 26    FOSTER CARE AND ADOPTION**  
**PART 6           COMMUNITY HOME LICENSING STANDARDS**

**8.26.6.1           ISSUING AGENCY:** Children, Youth and Families Department (CYFD) Protective Services Division (PSD).  
[8.26.6.1 NMAC - N, 02/28/2014]

**8.26.6.2           SCOPE:** Any individual, partnership, association or corporation, doing business in New Mexico, undertaking to place a child in a community home for the purpose of providing a 24 hour group living setting in order to meet the child's developmental, psychological, educational, social and emotional needs.  
[8.26.6.2 NMAC - N, 02/28/2014]

**8.26.6.3           STATUTORY AUTHORITY:** Children, Youth and Families Department Act, NMSA 1978, 9-2A-7 D.  
[8.26.6.3 NMAC - N, 02/28/2014]

**8.26.6.4           DURATION:** Permanent  
[8.26.6.4 NMAC - N, 02/28/2014]

**8.26.6.5           EFFECTIVE DATE:** August 29, 2014, unless a later date is cited at the end of a section.  
[8.26.6.5 NMAC - N, 02/28/2014; A, 8/29/2014]

**8.26.6.6           OBJECTIVE:** These standards authorize the protective services division, of the children, youth and families department, to license community homes for the purpose of ensuring the health and safety of children under the administration of the Human Services Department Act, NMSA 1978, 9-8-13. These standards within 8.26.6 NMAC supersede Sections 82 through 127 of 7.8.3 NMAC. The children, youth and families department recognizes these community home standards within 8.26.6 NMAC as the exclusive standards for licensing community homes.  
[8.26.6.6 NMAC - N, 02/28/2014]

**8.26.6.7           DEFINITIONS:**

**A.            "Adult"** means, for the purpose of 8.26.6 NMAC, a person who is age 18 years or older and is a client of and resides in a community home licensed by PSD.

**B.            "Child"** means, for the purpose of 8.26.6 NMAC, a person who is under the age of 18 and is a client of and resides in a community home licensed by PSD.

**C.            "Child abuse and neglect check"** is a review of the PSD information management system, also known as FACTS, or another state's central abuse or neglect registry to determine if there have been any previous referrals on an individual to this state's or another state's protective services division.

**D.            "Community home"** means a facility which operates 24 hours a day and provides full time care, supervision and support to no more than 16 children in a single residential building, and which meets the definition of "group home" as outlined in the Human Services Department Act, NMSA 1978, 9-8-13.

**E.            "Contact"** for the purpose of 8.26.6 NMAC may include, but is not limited to:

- (1) the ability to make physical contact with children;
- (2) working in close proximity to children; and
- (3) having unsupervised access to children.

**F.            "Corrective action"** means action taken by PSD in order to correct deficiencies or non-compliance with 8.26.6 NMAC.

**G.            "Corrective action plan"** means a written plan developed by PSD that identifies the actions that will be taken to correct deficiencies or non-compliance with 8.26.6 NMAC.

**H.            "Criminal records check (CRC)"** means, for the purpose of 8.26.6 NMAC, federal, state or local checks for criminal offenses conducted on all staff, interns or volunteers whose duties include contact with children, as defined in Subsection E of 8.26.6.7 NMAC.

**I.            "CYFD"** means the children, youth and families department of the state of New Mexico.

**J.            "Deficiency"** means non-compliance with 8.26.6 NMAC, and other laws or regulations referenced herein.

(1) **“Minor deficiencies”** means those deficiencies that do not impair the safety, permanency or well-being of a child while in the community home’s care.

(2) **“Substantial deficiencies”** means those deficiencies that impair the safety, permanency or well-being of a child while in the community home’s care.

**K. “Emergency suspension”** means the prohibition of a community home’s operation for a stated period of time through the temporary withdrawal of the license, prior to a hearing on the matter, when immediate action is required to protect human health and safety.

**L. “Governing board”** means the organizational entity of an agency that has the ultimate responsibility for all planning, direction, control, and management of the activities and functions of a community home licensed pursuant to 8.26.6 NMAC.

**M. “Incident”** means any incident reportable to PSD that may include, but is not limited to:

(1) policy and procedure violations related to the health and safety of a child;

(2) abuse or neglect, as defined in Subsections N, Q and U of 8.26.6.7 NMAC, which may include but is not limited to:

(a) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by a staff member or volunteer to a child; or

(b) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by a child to another child;

(3) death or serious injury to a child;

(4) safety issues concerning a child;

(5) children who have run away; or

(6) serious or contagious illnesses.

**N. “Neglect”** means, for the purpose of 8.26.6 NMAC, a child:

(1) who is without proper care, subsistence, education, medical or dental care necessary for the child’s well-being due to the refusal or failure to act on behalf of the child by the community home; or

(2) who has been physically or sexually abused and the community home knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm.

**O. “On-site review”** means the on-site review of a community home for the purpose of determining whether 8.26.6 NMAC is being met.

**P. “Permanency plan”** means, for the purpose of 8.26.6 NMAC, a plan of intervention for the permanent placement of a child in PSD custody, as defined under the Adoptions and Safe Families Act.

**Q. “Physical abuse”** for the purpose of 8.26.6 NMAC includes, but is not limited to any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence.

**R. “Placement”** means the point in time when the child is placed in the community home by a legal custodian or guardian.

**S. “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.

**T. “Service provider”** means anyone, agency or individual, providing a service to a child.

**U. “Sexual abuse”** for the purpose of 8.26.6 NMAC, includes but is not limited to criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law.

**V. “Substantial compliance”** means a community home has complied with 8.26.6 NMAC, and that only minor deficiencies exist which do not impair the safety, permanency or well-being of a child.

**W. “Variance”** means, upon written application from a community home, PSD may in the exercise of its sole discretion issue a variance that allows non-compliance with 8.26.6 NMAC. Variances are issued in writing at PSD’s sole discretion.

**X. “Wide scale emergency”** means a natural disaster, such as floods, wild fires and pandemic diseases or human-caused disaster, whether intentional or accidental, such as acts of terrorism, transportation accidents and explosions. A wide scale emergency affects the entire community, with consequences that surpass the community’s resources to respond, and typically, although not necessarily, results in a local, state, or national declaration of emergency.

[8.26.6.7 NMAC - N, 02/28/2014; A, 8/29/2014]

**8.26.6.8 ELIGIBLE COMMUNITY HOME:**

**A.** The principle function of a community home is to provide full time care to children on a 24 hour a day residential basis for no more than 16 resident children in a designated residential building.

**B.** The community home shall be licensed to do business in the state of New Mexico and be a member of any state or national association that requires the community home to observe standards recognized by state or national group home standards for the care of children, such as the New Mexico Christian child care association, the national association of home for children or the council on accreditation.

[8.26.6.8 NMAC - N, 02/28/2014]

**8.26.6.9 APPLICATION:** Any individual, group or organization requesting consideration for a license as a community home shall submit information to PSD, as described in Subsections A-F of this Section. The application shall include:

**A. Description and organization:** Each applicant community home shall provide PSD a description of the community home to include, but not limited to:

- (1) the name or proposed name and location of the community home;
- (2) statement of non-profit status;
- (3) names and addresses of the members of the governing board;
- (4) name and address of the community home's administrator; and
- (5) a signed statement from the community home administrator acknowledging responsibility for:
  - (a) providing for the safety and well-being of children placed in the community home;
  - (b) monitoring risks that may expose the organization to liability; and
  - (c) monitoring risks that may reveal unsatisfactory service.

**B. Statement of purpose, including:**

- (1) philosophy of the applicant community home;
- (2) the type of services to be provided to children placed in the community home;
- (3) the type of services that may be offered to children outside of the community home; and
- (4) any applicable and current accreditations or affiliations.

**C. Personnel:**

(1) Applicant community homes will list the name of the supervisor and the home's administrator, such as the chief executive officer, the executive director, or the individual responsible for the administration of the community home.

(2) The applicant community home shall in its application provide the following information regarding staff and contract providers:

- (a) name, telephone and address of parent company and any contract providers, if applicable.
- (b) practicing clinical staff resumes, copy of current professional licensure, if applicable;
- (c) staff criminal records checks and abuse and neglect checks results; and
- (d) organizational charts.

**D. Policies and procedures:** Community homes shall develop policies and procedures that address the health and safety of children as outlined in Section 16 of 8.26.6 NMAC.

**E. Community home operations:** The applicant community home shall include documentation of financial operations, including:

- (1) a statement of financial responsibility from a certified public accountant which demonstrates that the applicant has access to sufficient funds to provide services for a minimum of six months; and
- (2) proof of professional liability insurance, acceptable to PSD.

**F. Changes, additions or revisions:** Applicant community home changes, additions or revisions to the information contained in the original application shall be submitted to PSD for approval before implementation. PSD may request, in writing and by certified mail, additional information to support the application. The requested information shall be submitted within 30 calendar days of PSD's request. An applicant community home's failure to respond to PSD's request for information within 30 calendar days shall be construed as voluntary withdrawal of an application.

[8.26.6.9 NMAC - N, 02/28/2014]

**8.26.6.10 TYPES OF LICENSES:**

**A. Initial license:** An initial license is granted to a community home when PSD verifies that the

applicant is in substantial compliance with the licensing requirements outlined in 8.26.6 NMAC. If the applicant community home is in substantial compliance but there are minor deficiencies, the applicant community home shall be directed by PSD to correct the minor deficiencies. An initial license shall be issued for a maximum of one year.

**B. Standard license:** If a community home continues to meet all licensing requirements, PSD shall license the community home for a standard license. A standard license is issued for one year; however, PSD has the option to issue a two year license if the community home consistently exceeds the basic standards outlined in 8.26.6 NMAC.

**C. Six month license:** A six month license may be issued when PSD determines the community home has documented substantial deficiencies or chronic minor deficiencies, and:

(1) the community home submits a written corrective action plan as approved by PSD to correct the deficiencies; and

(2) the community home can meet the licensing requirements within six months from the date of issuance of the six month license; PSD makes at least one on-site review at least two months prior to the expiration of the six month license, or more frequent reviews, to determine that the community home has taken sufficient steps to correct the deficiencies.

**D. License extension:** If a community home requests to be re-licensed, and holds a current standard license, and an on-site review is not conducted prior to the or on the date of expiration of the present license, the most recent license may remain in effect for a period of up to 90 calendar days beyond the current expiration date. The extension allows for completion of the on-site review and determination if a new license is issued, or, in the case of a voluntary community home closure, to allow for the timely transfer of families or children. Upon written request of the community home, PSD issues a letter extending the license for the determined amount of time, not to exceed 90 days.

[8.26.6.10 NMAC - N, 02/28/2014]

**8.26.6.11 APPROVAL OR DENIAL OF A LICENSE:** A license is granted or denied based upon the application, assessment and determination that the applicant community home is, or is not, in compliance with the licensing standards outlined in 8.26.6 NMAC and any other standards governing the health and safety of children residing within a community home.

**A. Approval:** PSD notifies the applicant community home, in writing, of approval of a license. Notice is sent by registered mail to the address shown on the application within 90 calendar days after receipt of the completed application.

**B. Denial:** PSD notifies the applicant community home, in writing, of denial of the license. The applicant community home may be denied a license when the standards for licensing are not met or the applicant community home has a history of license revocation, suspension, denial, penalties or allegations of abuse or neglect substantiated by PSD or any other state agency responsible for the protection and welfare of children. Notice of denial is sent by registered mail to the address shown on the application within 90 calendar days after the receipt of the completed application packet. A notice denying the license states the reason for the denial and informs the applicant community home of the appeal process. See Section 13 of 8.26.6 NMAC.

[8.26.6.11 NMAC - N, 02/28/2014]

**8.26.6.12 LICENSE RENEWAL:**

**A.** The community home shall request a renewal of its license, on a renewal form provided by PSD, by certified mail, no later than 90 calendar days before the expiration of the current license.

**B.** A license is renewed or terminated based on the community home's written request for renewal and PSD's on-site review and assessment of community home's operations. Failure to submit a renewal form at least 90 days prior to expiration of a license with the required documents attached, shall be interpreted as voluntary closure.

**C.** If a community home fails to file a renew request within 90 calendar days of expiration of the license, the license may be, at PSD's sole discretion, automatically terminated 30 days from the expiration date shown on the face of the existing license. The community home shall assist in the smooth transfer of the children to other licensed child placement agencies or community homes, so that there is no disruption in the care of the children.

**D.** Before renewing a community home license, PSD shall determine that the community home is in compliance with all applicable requirements by conducting an onsite review which shall include interviews, case record reviews and visits to the facilities maintained by the community home. PSD is not responsible for locating documents when files are not kept organized and up to date.

**E.** PSD shall notify the community home in writing of its licensing decision before the expiration date of the current license. If PSD does not renew the license prior to its expiration date, a license extension, at PSD's sole discretion, may be issued to the community home for a maximum of 90 calendar days. If PSD decides to not renew a community home's license, notice of denial is sent by registered mail to the address shown on the application prior to the expiration date of the current license. The notice states the reasons for the denial and informs the applicant of the appeal process. See Section 13 of 8.26.6 NMAC.  
[8.26.6.12 NMAC - N, 02/28/2014]

#### **8.26.6.13 SANCTIONS, NOTIFICATION AND ADMINISTRATIVE HEARINGS:**

**A. Sanctions and Notification:** PSD may impose sanctions if it determines that a community home has failed to comply with 8.26.6 NMAC, or where an investigation substantiates an allegation of abuse or neglect against a community home. At PSD's discretion, depending upon the severity of a community home non-compliance, PSD may issue a letter of correction, put a community home on probation with restricted admissions, suspend a community home license, revoke a community home license, or deny a community home license. PSD shall notify the community home in writing by return receipt mail of its intent to put the community home on probation or suspension, or to revoke or not renew the license. Notice shall be sent to the address on file, or by personal delivery to the person authorized to accept service on behalf of the community home. Notice shall be sent at least 30 days prior commencement of such actions.

(1) Letter of correction: PSD may send the community home a letter of correction. The letter of correction is sent by registered mail and:

(a) notifies the community home of identified deficiencies and works with the community home to correct the deficiencies by a specific date;

(b) requires the community home to submit a written corrective action plan, subject to approval of PSD, identifying the specific actions which will be taken to correct the deficiencies, following the time frame provided by PSD; at its discretion, PSD staff may work with the community home in the development or revision of the corrective action plan; and

(c) advises the community home of potential PSD actions should the deficiencies not be corrected, including, but not limited to probation, suspension or revocation of license, or denial of license renewal.

(2) Probation with restricted admissions: PSD may place the community home on probation and restrict the community home from accepting any new clients or expanding into additional services until the identified deficiencies are corrected. Notice shall:

(a) state the deficiencies and reasons for the probation and instruct the community home to correct the deficiencies by a specific date;

(b) require the community home to submit a written corrective action plan, subject to approval of PSD, identifying the specific actions which will be taken to correct the deficiencies, following the time frame provided by PSD. At its discretion, PSD staff may work with the community home in the development or revision of the corrective action plan;

(c) advise the community home of potential PSD actions should the deficiencies not be corrected, including, but not limited to suspension or revocation of license or denial of license renewal; and

(d) inform the community home of the right to request an administrative hearing and instructions on how to request an administrative hearing through CYFD.

(3) Suspension of license: PSD may suspend the community home license and move the children placed by the community home to new placements, giving preference to another licensed community home provider. When PSD suspends a community home license, the community home shall assist PSD in arranging for transfer of care, custody and control of any children currently being served, and for the preservation and transfer of records. Notice shall:

(a) state the deficiencies and reasons for the suspension and works with the community home to correct the deficiencies by a specific date;

(b) require the community home to submit a written corrective action plan, subject to approval of PSD, identifying the specific actions which will be taken to correct the deficiencies, following the time frame provided by PSD; at its discretion, PSD staff may work with the community home in the development or revision of the corrective action plan;

(c) advise the community home of potential PSD actions should the deficiencies not be corrected, including, but not limited to revocation of license or denial of license renewal; and

(d) inform the community home of the right to request an administrative hearing and instructions on how to request an administrative hearing through CYFD.

(4) Revocation of community home license or denial of license renewal: PSD may revoke a community home license or deny renewal of the license if PSD determines such action is necessary based upon the community home failure to comply with 8.26.6 NMAC, or the community home's failure to correct deficiencies identified in a prior letter of correction, probation, or suspension of license. When PSD revokes or denies renewal of a community home license, the community home shall assist PSD in arranging for the transfer of care, custody and control of any children currently being served, and for the preservation and transfer of records. The notice shall:

- (a) state the deficiencies and reasons for the revocation or denial of license renewal; and
- (b) inform the community home of the right to request an administrative hearing and instructions on how to request an administrative hearing through CYFD.

**B. Administrative hearings and emergency suspension:**

(1) PSD shall comply with the administrative appeals process governed by 8.8.4 NMAC, Children, Youth and Families General Provisions, Administrative Appeals.

(2) PSD may immediately suspend a community home license, prior to a hearing on the matter, when such action is required to protect human health and safety.

[8.26.6.13 NMAC - N, 02/28/2014]

**8.26.6.14 COMMUNITY HOME OPERATIONS:**

**A. Financial accountability:**

(1) Community homes shall provide a brief statement verifying financial stability from a certified public accountant to PSD during the annual onsite visit for license renewal.

(2) Community homes shall have an annual financial audit conducted by an independent certified public accountant. A brief statement or proof that such audit has been conducted from an independent certified public account will be provided to PSD during the annual onsite review for license renewal.

**B. Liability insurance:** Community homes shall provide proof of professional liability insurance acceptable to PSD.

[8.26.6.14 NMAC - N, 02/28/2014]

**8.26.6.15 HEALTH AND SAFETY CHECKLIST:**

**A. Heating, cooling, and ventilation:**

(1) Heating, air-conditioning, piping, boilers, and ventilation equipment shall be installed and maintained in safe working condition to meet all requirements of current state mechanical, electrical, and construction codes.

(2) Heating and cooling equipment shall be adequate to maintain a comfortable interior temperature in all living and sleeping quarters, and provides a means for adjusting the temperature by staff for clients as needed.

(3) All living and sleeping quarters shall be adequately ventilated. There shall be an effective means of providing fresh air to client's sleeping quarters, including at least one window.

**B. Electrical wiring and lighting:**

(1) Electrical wiring shall be installed and maintained in safe working condition to meet all requirements of current state mechanical, electrical, and construction codes.

(2) Extension cords shall be U/L approved and shall not be used for general wiring purposes.

(3) Living, working and sleeping quarters shall have adequate lighting; areas that pose potential tripping or falling hazards shall be adequately lit, this may include but is not limited to stairwells, parking lots, storerooms, entrances and exits.

(4) A community home shall provide emergency lighting, such as but not limited to flashlights, backup generators or battery operated lamps upon disruption of electrical service.

**C. Water:**

(1) A community home shall have an adequate supply of safe and sanitary water for drinking, cooking and bathing purposes.

(2) Water supply piping and associated equipment shall be installed and maintained in safe working condition to meet all requirements of current state safety regulations and construction codes.

**D. Sewage, waste and sanitation:**

(1) Living and sleeping quarters shall be kept clean and free of accumulation of dirt, waste, and infestations of insects and rodents.

(2) Toilet and bathing facilities shall be provided and maintained in a sanitary manner.

(3) Household waste shall be disposed by way of designated garbage or waste receptacles.

**E. Space, furnishing and sleeping arrangement:**

- (1) A community home shall have separate bedrooms for any adult age 19 years or older; any exceptions shall be requested by the community to PSD.
- (2) There shall be a separate bed provided for each child.
  - (a) Each bed has a clean, comfortable mattress which is waterproof or has a waterproof covering.
  - (b) Each bed is provided with a clean, comfortable pillow and pillow case.
  - (c) Each bed is provided with two clean sheets and bedding that is appropriate for weather and climate.
- (3) Cribs must be of sturdy construction with bars closely spaced so that a child's head cannot be caught between the bars. Drop side cribs are prohibited.
  - (a) Cribs must have clean, individual crib size bedding.
  - (b) Crib mattress must be completely and securely covered with waterproof material.
- (4) A child over the age of five years shall not share a bedroom with another non-related child of the opposite gender.
- (5) There shall be sufficient closet space or furniture storage space to permit the storage of children's clothes, linens and bedding.
- (6) All furnishings shall be clean and maintained in a safe and sanitary condition.

**F. Kitchen and food storage:**

- (1) A community home shall have a kitchen with sufficient storage space. Food shall be stored separately from cleaning supplies and other household chemicals.
- (2) The kitchen shall be equipped with a refrigerator sufficient to maintain cold food storage safely.
- (3) The kitchen and food preparation equipment and storage shall be maintained in a sanitary condition.

**G. Doors, locks and fire safety:**

- (1) Community homes shall have at least two designated exits that meet fire code standards.
- (2) Designated exits shall be clear of obstructions at all times.
- (3) There shall be no interior door hardware which makes it possible for a child to be locked inside. All privacy locks shall be provided with emergency unlocking mechanisms.
- (4) Community homes shall have smoke detectors appropriate for the square footage.
- (5) Community homes shall have carbon monoxide detectors in living or sleeping areas where carbon monoxide poisoning is a possibility.
- (6) Community homes shall develop a fire evacuation plan with staff to safely remove children in case of fire. All staff and children should be oriented to the community home's fire evacuation plan.

**H. Yard and play space:**

- (1) Community homes shall have access to safe indoor and outdoor designated play areas.
- (2) In areas which have a high density of traffic or other hazards to children, the yard or play space shall be adequately fenced for the children's protection.
- (3) All outdoor play space and toys, swings and other outdoor equipment shall be maintained in good working condition and be free of projecting sharp edges, splinters or other hazards to children.

**I. Personal items:**

- (1) Each child shall be provided an individual comb, toothbrush, night clothes, and under garments which shall not be interchanged between children.
- (2) Linens and bedding shall be stored and maintained in a manner assuring that they will be clean when ready for use. All linens and bedding shall be laundered before use by another child.

**J. First aid, medical and behavioral health care and dental care:**

- (1) Each community home shall make available a first aid kit and first aid manuals readily accessible to staff.
- (2) The community home ensures that children receive timely, competent medical care when they are ill and that they continue to receive necessary follow-up medical care as needed.
- (3) The community home shall ensure that children have access to and receive behavioral health assessments, services and treatment that address their habilitation and treatment needs.
- (4) The community home arranges to secure any necessary dental care and that each child three years of age or older has an annual dental examination.

**K. Medication:**

- (1) Prescription medicines shall be administered only as prescribed by a medical doctor, nurse practitioner, or physician's assistant. Medications prescribed for one child are not to be given to any other child.

(2) All medications shall be stored separately from food, cleaning agents or other household chemicals, and shall be stored in a manner in which they are not easily accessed by children.

(3) All leftover or expired medication shall be disposed of according to state pharmaceutical regulations.

**L. Animals:**

(1) All animals, including farm animals or pets, shall be in good health with documentation of current vaccinations as appropriate and relevant to the type of animal.

(2) Farm animals shall be properly housed and secured as a health and safety precaution.

**M. Motor vehicles:**

(1) If the community home operates a motor vehicle then the community home shall have motor vehicle insurance as required by law.

(2) Any person who operates such motor vehicles used to transport children shall have a valid driver's license.

(3) All motor vehicles used for the purpose of transporting children shall have safety restraints as required by law and shall have properly installed car seats for age appropriate children.

**N. Other safety issues:**

(1) For age appropriate children, a community homes shall have safety gates and locking mechanisms for cabinets that contain medications, cleaning agents or chemicals.

(2) All weapons owned or acquired by a community home shall be stored and locked with ammunition stored separately as per the PSD approved weapons safety agreement. The community home shall sign a PSD weapons safety agreement; a signed copy will be provided to the community home and the original will be kept on file with PSD.

(3) All pool areas, including hot tubs, shall be adequately secured in order to prevent the access of young children when not accompanied by an adult. Spas or hot tubs shall be securely covered to prevent the access of young children when not in use. Outdoor ponds shall not be within the immediate play area of children.

(4) Smoking shall be prohibited in the house and in any vehicle used for transporting children.

[8.26.6.15 NMAC - N, 02/28/2014]

**8.26.6.16 COMMUNITY HOME POLICIES AND PROCEDURES:** Community homes shall develop, maintain and follow internal written policies and procedures concerning:

**A. Protection of children:** Policies and procedures shall acknowledge the community home's responsibility to protect the safety of children. Specifically, policies and procedures shall:

(1) require that community home staff report all suspected incidents of abuse and neglect, as defined in Subsections N, Q and U of 8.26.6.7 NMAC, involving children in the community home's care and advise the child's legal guardian when such a report is made;

(2) address the safety of children who may be harmed while in the care and control of the community home or its providers and include a plan stating the course of action followed in the event a child is harmed, without regard to how the incident occurred, and identifying the line of authority and the decision-making process to assist in the reporting and investigation of these matters; and

(3) create a safe and supportive home environment for youth in PSD custody regardless of their sexual orientation or gender identity.

**B. Confidentiality:** Under the confidentiality provisions of the New Mexico Children's Code, NMSA 1978, Sections 32A-3B-22, 32A-4-33, 32A-5-6 and 32A-5-8, all child or client case records and child or client identifying information is confidential and may not be publicly disclosed.

**C. Grievances:** Policies and procedures shall include that process by which the community home reviews and makes decisions regarding grievances on behalf of all children residing within the community home.

**D. Incident reports:** Policies and procedures shall include a process for internally reviewing and acting upon incident reports. Incidents and subsequent incident reports shall include, but are not limited to:

(1) policy and procedure violations related to the health and safety of a child;

(2) abuse or neglect of a child, as defined in Subsections N, Q and U of 8.26.6.7 NMAC, including but not limited to:

(a) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by any adult, staff member, or volunteer to a child; and

(b) physical or sexual abuse, as defined in Subsections Q and U of 8.26.6.7 NMAC, by a child to another child;

(3) death or serious injury to a child;

- (4) safety issues concerning a child;
- (5) children who have run away; and
- (6) serious or contagious illnesses.

**E. Personnel:** The community home shall develop, maintain, and adhere to internal written personnel policy and procedures governing employees, student interns and volunteers. Each employee, student intern and volunteer shall receive a copy of:

- (1) policy regarding conflicts of interest;
- (2) policy requiring staff, student interns and volunteers to report all suspected incidents of abuse and neglect;
- (3) policy regarding the confidentiality of child and client case records and identifying information, including the requirement for a signed acknowledgement of confidentiality by each employee, contractor, or volunteer; and

(4) requirements for abuse and neglect checks and state and federal criminal records checks for all applicable staff, student interns and volunteers, see Subsection A of 8.26.6.17 NMAC.

[8.26.6.16 NMAC - N, 02/28/2014]

#### **8.26.6.17 STAFF BACKGROUND CHECKS:**

**A.** Community homes shall conduct state and federal criminal records checks and child abuse and neglect checks for staff, interns and volunteers whose duties include any contact with children. Contact may include but is not limited to:

- (1) physical contact with children;
- (2) working in close physical proximity to children; and
- (3) having unsupervised access to children.

**B.** Staff, interns and volunteers shall successfully pass state and federal criminal records checks and child and abuse neglect checks prior to any contact with children.

**C.** If a criminal records check is not required for an employee, student intern or volunteer, then the reason for not requiring the criminal records check must be documented in the file of the employee, student intern or volunteer.

**D.** Staff, student interns and volunteers shall report all arrests or abuse and neglect referrals to the community home within 24 hours of the alleged offense. The community home shall investigate any reported or discovered arrests and referrals and take appropriate action to protect the safety of the children residing in their homes.

**E.** Any corrective actions in response to a referral or arrest will depend on the outcome of such referral or arrest and may include a written reprimand, a corrective action plan, and restriction of unsupervised contact with children, suspension or termination, depending on the nature of the offense and whether or not children were involved. The community home shall document any corrective actions taken.

**F.** Volunteers and staff whose duties are clerical, relate to cooking and maintenance, or other support staff activities and whose duties do not include being in close proximity to children or left alone with children unsupervised are not subject to requirements outlined in Subsections A and C of 8.26.6.17 NMAC.

[8.26.6.17 NMAC - N, 02/28/2014]

#### **8.26.6.18 STAFFING REQUIREMENTS:**

**A. Minimum staff:** Community home staff shall include, at a minimum, an administrator and a supervisor. The administrator may also fulfill the role of supervisor, provided the person meets the minimum qualifications for the higher position.

(1) Administrator: The administrator shall work in the community home's New Mexico office.

(2) Clinical supervisor: Each community home shall have access to a licensed clinical supervisor for the purpose of evaluating the behavioral health needs of its clients. The clinical supervisor shall make face to face contact with clients when delivering services to clients. The clinical supervisor shall be licensed by the state of New Mexico as a:

- (a) licensed psychologist or psychiatrist;
- (b) social worker licensed at the master's level (MSW);
- (c) licensed professional clinical mental health counselor (LPCC); or
- (d) licensed marriage and family therapist (LMFT).

**B. Staff to client ratio:** Community home staff and volunteers who work directly with clients, as outlined in Subsection A of 8.26.6.17 NMAC, and who are counted in the staff-to-child ratio shall be 18 years of age

or older. The community home shall maintain the following ratios:

- (1) for children under the age of six years old, one staff to six children; and
- (2) for children over the age of six, one staff to sixteen children.

**C. References:** At least three professional and character references shall be obtained by a community home for each potential employee prior to his or her employment. One of these references shall be from the previous employer or a professional colleague who has direct knowledge of the qualifications of the potential employee. Each letter of reference shall be followed up by a phone call by the agency. Documentation of references, with date and type of contact, including all telephone or in person contacts, shall be included in the employee's personnel file.

**D. Employment history:** A community home shall obtain a relevant employment history on each potential employee prior to employment and verify requisite experience or document attempts to accomplish such in the personnel file.

**E. Staff training:** All staff members of a licensed community home shall be instructed in:

- (1) the definitions of abuse and neglect as defined in Subsections M, P and T of 8.26.6.7 NMAC; and
- (2) the responsibility of staff to report all suspected incidents of child abuse or neglect including access to the statewide central intake hot line number.

**F. First aid certification:** At least one staff member who has direct contact with children shall have a current first aid certificate and a current cardio pulmonary resuscitation certification.  
[8.26.6.18 NMAC - N, 02/28/2014]

#### **8.26.6.19 EMPLOYEE, STUDENT INTERN, AND VOLUNTEER PERSONNEL FILES:**

**A. Employee personnel file:** The community home shall maintain a personnel file for all employees, including temporary professional employees, of the community home which shall be available to PSD for inspection. Each file shall include, at a minimum:

- (1) application: the employee's employment application showing qualifications and experience;
- (2) references: at least three professional and character references for each potential employee prior to his or her employment;
- (3) academic transcripts: the official academic transcripts, if applicable;
- (4) disciplinary or corrective actions: documentation of any disciplinary or corrective action taken;
- (5) evaluations: any evaluations of work performance;
- (6) background check results: the results of the abuse and neglect and criminal records check, if required; if a background check is not required, the file shall include written documentation as to why it is not required;
- (7) training: any training received including content and hours, and documentation that staff have been instructed on:
  - (a) the definitions of abuse and neglect as defined in Subsections M, P and T of 8.26.6.7 NMAC; and
  - (b) the responsibility of staff to report all suspected incidents of child abuse or neglect, to include access to the statewide central intake hotline number.
- (8) licenses or certifications: a copy of an employee's professional license or certifications when applicable;
- (9) abuse and neglect reporting: a signed statement of understanding by the employee of the requirements to report suspected abuse and neglect to PSD;
- (10) community home licensing standards: a signed statement by professional staff acknowledging the receipt of these regulations; and
- (11) confidentiality statement: signed statement by the employee acknowledging the confidentiality rights of the children and families that are or may become clients of the community home, specifically that the child or client's case records and identifying information shall not be publically released

**B. Student intern personnel file:** The community home shall maintain a personnel file for all student interns of the community home which shall be available to PSD for inspection. Each file shall include, at a minimum:

- (1) reference: the community home shall obtain at least three professional and character references for each potential student intern prior to the commencement of the internship;
- (2) academic transcripts: the official academic transcripts, if applicable;
- (3) disciplinary or corrective actions: documentation of any disciplinary or corrective action taken;
- (4) evaluations: any evaluation of work performance;
- (5) background check results: the results of the abuse and neglect and criminal records check, if

required; if a background check is not required, the file shall include written documentation as to why it is not required;

(6) training: any training received including content and hours, and documentation the student intern has been instructed on:

(a) the definitions of abuse and neglect as defined in Subsections M, P and T of 8.26.6.7 NMAC; and

(b) the responsibility of the student intern to report all suspected incidents of child abuse or neglect, to include access to the state wide central intake hotline number.

(7) licenses or certifications: a copy of the current professional license or certifications, if applicable;

(8) abuse and neglect reporting: a signed statement of understanding by the student intern of the requirements to report suspected abuse and neglect to PSD;

(9) community home licensing standards: a signed statement by the student intern acknowledging the receipt of these regulations; and

(10) confidentiality statement: signed statement by the student intern acknowledging the confidentiality rights of the children and families that are or may become clients of the community home, specifically that the child or client's case records and identifying information shall not be publically released.

**C. Volunteer files:**

(1) background check results: the results of the abuse and neglect and criminal records check, if required; if a background check is not required, the file shall include written documentation as to why it is not required;

(2) training: any training received including content and hours, and documentation the volunteer has been instructed on:

(a) the definitions of abuse and neglect as defined in Subsections M, P and T of 8.26.6.7 NMAC; and

(b) the responsibility of the volunteer to report all suspected incidents of child abuse or neglect, to include access to the state wide central intake hotline number.

(3) abuse and neglect reporting: a signed statement of understanding by the volunteer of the requirements to report suspected abuse and neglect to PSD; and

(4) confidentiality statement: signed statement by the volunteer acknowledging the confidentiality rights of the children and families that are or may become clients of the community home, specifically that the child or client's case records and identifying information shall not be publically released.

[8.26.6.19 NMAC - N, 02/28/2014]

**8.26.6.20 RECORDS:**

**A. Child's record:** The child's record shall contain at a minimum:

(1) intake information; any assessments relevant to the child's needs and well-being, and the discharge report with recommendations;

(2) education records: the community home shall maintain documentation of the child's education status, needs, and history; the documentation shall include information provided by the school to the community home and is updated, at a minimum, each academic year;

(3) medical and behavioral health records: the community home shall maintain documentation of the child's medical and behavioral health needs, medications, and history including but not limited to:

(a) medical information;

(b) behavioral health history;

(c) developmental history;

(d) immunization record;

(e) history of serious illness or injury;

(f) physiological or psychological evaluations;

(g) past and current use of prescribed medications (including psychotropic medications);

(h) any complaints by the child indicating a current need for diagnosis and treatment;

(i) dates of any dental, visual, auditory, and physical examination and any treatment secured for any conditions discovered; and

(j) diagnosed behavioral health conditions and dates of any behavioral health treatment secured for those conditions.

(4) individualized case plan report: the child's record shall contain an individualized case plan report of services provided by the community home; for children in PSD custody, the report shall be provided to the PSD

worker and shall include dates and locations of all professional staff visits with the child; and

- (5) any incident reports.

**B. Administrative records:** Administrative records include but are not limited to:

- (1) employee, student intern or volunteer records or files;
- (2) policy and procedure; and
- (3) a copy of the community home's license.

[8.26.6.20 NMAC - N, 02/28/2014]

#### **8.26.6.21 COMMUNITY HOME REPORTS:**

**A. Annual reports:** The community home shall submit to PSD an annual statistical report of the services provided by the community home.

**B. Report format:** Annual reports shall be prepared on forms provided by PSD and include all the information required therein, including, but not limited to:

- (1) total number of children placed during the reporting period;
- (2) total number of children discharged from the community home during the reporting home;
- (3) all complaints, incidents, and abuse and neglect reports with complaint's identifying information made regarding specific homes and information regarding resolution of such; and
- (4) children in PSD custody statistics:
  - (a) number of children in PSD custody placed in the community home during the reporting period;
  - (b) number of children in PSD custody discharged from community home placement during the reporting period;
  - (c) number of children in PSD custody remaining in community home placement at the end of the reporting period; and
  - (d) identity (first name and last initial) and date of placement of children in PSD custody who have been in community home for more than six months.

**C. Confidentiality of reports:** Annual reports are not confidential, except that child or client identifying information and criminal records checks and abuse and neglect checks information, shall not be released to the public except as required by a court order.

[8.26.6.21 NMAC - N, 02/28/2014]

#### **8.26.6.22 EMERGENCY RESPONSE PLAN:**

**A.** As required by the federal Child and Family Services Improvement Act of 2006 and included in CYFD's federal child and family services plan, each community home shall develop and maintain a written emergency response plan.

**B.** The plan shall be developed within three months of the promulgation of these regulations, or within three months of initial licensure. PSD will review the plan during on-site visits.

**C.** Contact information shall be provided to PSD for alternative locations in which the community home would evacuate staff and children to in case of a wide scale emergency.

[8.26.6.22 NMAC - N, 02/28/2014]

#### **8.26.6.23 PSD ROLE:**

**A. Annual on-site review:** PSD shall conduct annual on-site reviews as part of the community home's annual re-licensure.

**B. Investigations of abuse and neglect referrals in community homes:** PSD shall investigate all screened-in reports of allegations of abuse or neglect regarding children in accordance with CYFD protective services investigation policy and procedure. If a screened-out report involves a child in PSD custody, the child's PSD case worker shall conduct a safety assessment of the placement.

**C. On-site reviews and investigation authority:** PSD may conduct on-site reviews and interviews related to referrals of abuse and neglect, licensing violations, or complaints received by PSD related to the operation of the community home. Such reviews and interviews may be conducted at any time, with or without prior notice. In order to evaluate the safety and continuity of care for children placed in the community home, PSD may enter and inspect the community home's offices and physical facilities.

[8.26.6.23 NMAC - N, 02/28/2014]

#### **8.26.6.24 VOLUNTARY COMMUNITY HOME CLOSURE:** When a community home voluntarily

closes, the community home shall notify PSD in writing at least 90 calendar days prior to the agency beginning to move children to another agency or community home. The licensee shall provide PSD a written plan summarizing the preparation and arrangements for the care, custody and control of any children being served.  
[8.26.6.24 NMAC - N, 02/28/2014]

**HISTORY OF 8.26.6 NMAC:** [RESERVED]