

TITLE 8 SOCIAL SERVICES
CHAPTER 26 FOSTER CARE AND ADOPTION
PART 7 CITIZEN SUBSTITUTE CARE REVIEW

8.26.7.1 ISSUING AGENCY: Substitute Care Advisory Council, Regulation and Licensing Department, P.O. Box 25101, Santa Fe, New Mexico 87504.
[8.26.7.1 NMAC - Rp 8.26.7.1 NMAC, 3/12/2019]

8.26.7.2 SCOPE: This rule sets out the duties of the substitute care advisory council relating to substitute care review boards pursuant to the citizen substitute care review act Section 32A-8-1 *et seq.*, NMSA 1978.
[8.26.7.2 NMAC - Rp 8.26.7.2 NMAC, 3/12/2019]

8.26.7.3 STATUTORY AUTHORITY: Authority for Part 7 of Chapter 26 is found in Section 32A-8-1 *et seq.*, NMSA 1978.
[8.26.7.3 NMAC - Rp 8.26.7.3 NMAC, 3/12/2019]

8.26.7.4 DURATION: Permanent.
[8.26.7.4 NMAC - Rp 8.26.7.4 NMAC, 3/12/2019]

8.26.7.5 EFFECTIVE DATE: March 12, 2019 unless a later date is cited at the end of a section.
[8.26.7.5 NMAC - Rp 8.26.7.5 NMAC, 3/12/2019]

8.26.7.6 OBJECTIVE: This rule establishes council responsibilities, membership criteria, and operating procedures for case reviews by board members.
[8.26.7.6 NMAC - Rp 8.26.7.6 NMAC, 3/12/2019]

8.26.7.7. DEFINITIONS:

- A. “Advisory committee”** means the six-member advisory committee appointed by the council.
- B. “Board”** means a substitute care review board established by the council for the purpose of reviewing cases.
- C. “Council”** means the substitute care advisory council.
- D. “Department”** means the children, youth and families department.
- E. “Member”** means an individual appointed by council staff and who maintains training, participation, and conduct expectations.
- F. “Staff”** shall include any individual employed or independently contracted by an entity contracting with the council or staff employed or independently contracted by the regulation and licensing department (RLD).
[8.26.7.7 NMAC - Rp 8.26.7.7 NMAC, 3/12/2019]

8.26.7.8 COUNCIL RESPONSIBILITIES:

- A.** The council shall elect a chair, vice-chair, and any other officers deemed necessary.
- B.** The council shall hold a meeting quarterly and at other times as determined by the chair.
 - (1)** The agenda for the first quarter meeting shall include, but is not limited to:
 - (a)** a review of prior fiscal year information for the purposes of identifying recommendations for the revision or enactment of statutes and revision or adoption of policies or procedures related to the issues regarding substitute care, including changes to the citizen substitute care review act; and
 - (b)** the appointment of the advisory committee.
 - (2)** The agenda of the third quarter meeting shall include, but is not limited to: the renewal of the Open Meetings Act resolution.
 - (3)** The agenda for the fourth quarter meeting shall include, but is not limited to:
 - (a)** the adoption of priority criteria for case reviews for the subsequent fiscal year;
 - (b)** the training requirements for the subsequent fiscal year; and
 - (c)** the appointment process for the advisory committee for the subsequent fiscal year.
- C.** By November 1st of each year, the council, with support of staff, will distribute an annual report with its recommendations to the department, the courts, and the appropriate legislative interim committees regarding

statutes, rules, policies, and procedures relating to substitute care. Each report shall not contain confidential information, but shall include recommendations for any changes to boards. More frequent reporting may be authorized at the discretion of the council.

[8.26.7.8 NMAC - N, 3/12/2019]

8.26.7.9 MEMBERSHIP:

- A. Recruitment:**
 - (1) Staff will pursue ongoing recruitment of members.
 - (2) Recruitment will focus on including individuals who:
 - (a) are representative of the communities of New Mexico;
 - (b) have expertise in the prevention and treatment of child abuse and neglect;
 - (c) are adult former victims of child abuse and neglect; and
 - (d) meet eligibility requirements.
 - B. Eligibility:**
 - (1) No individual or relative of an individual prohibited from serving pursuant to Subsection C of Section 32A-8-5 NMSA 1978 shall serve as a member.
 - (2) No individual, who has been convicted of, or who faces pending charges for a felony or misdemeanor involving a sex offense, child abuse or neglect, or related charges that may pose risks to children shall serve as a member.
 - C. Application process - the application process shall, at a minimum, include:**
 - (1) Reference and background checks completed by staff to include, but not be limited to, information available from New Mexico courts, the New Mexico sex offender registry, and the department's records of prior child abuse and neglect cases.
 - (2) Interviews conducted via phone or in-person, or a combination thereof, by staff. Current members may be included in the interviews at the discretion of staff.
 - (3) Successful completion of on-line or in-person training, or a combination thereof.
 - (4) Acknowledgement, in writing, of confidentiality requirements.
 - (5) Observation of at least two board meetings.
 - D. Appointment:**
 - (1) Members will be appointed by council staff for a term of two years.
 - (2) Members shall sign and adhere to the code of conduct established by the council.
 - (3) Members shall be eligible for reappointment, subject to successful completion of the renewal process established by the council prior to reappointment.
 - E. Training:**
 - (1) Members shall meet training requirements as established by the council.
 - (2) Training may be conducted quarterly or annually, on-line or in-person, or a combination thereof. Additional training may be authorized at the discretion of the council.
 - F. Termination:**
 - (1) Members shall resign in writing, and participate in an exit survey if possible.
 - (2) Staff may temporarily suspend or permanently remove a member upon a reasonable belief that the Member does not meet membership eligibility criteria, or has violated the member code of conduct, rules or expectations of members established by the council.
- [8.26.7.9 NMAC - N, 3/12/2019]

8.26.7.10 ADVISORY COMMITTEE: By June 30 of each year, the council shall determine the process of reappointing or nominating members to serve on the advisory committee to the council. The council shall appoint a six-member advisory committee by October 1 of each year. Advisory committee members are appointed to one-year terms and may be reappointed. The advisory committee shall meet with the council at least once a year to present its recommendations on matters relating to substitute care review.

[8.26.7.10 NMAC - Rp 8.26.7.10 NMAC, 3/12/2019]

8.26.7.11 CASE INFORMATION REQUIREMENTS:

- A. Information necessary for staff to determine whether a case meets the priority criteria established by the council for review may include, but is not limited to the following:**
 - (1) identifying information;
 - (2) court case number;

- (3) department case number;
- (4) department case name;
- (5) date of custody;
- (6) findings of fact for custody;
- (7) affidavits;
- (8) number of incidences of abuse or neglect, and an assessment of the severity of abuse or neglect;
- (9) notation of any behavioral health issues of the child or a household member that are known to have previously caused behavior that may present a safety risk to the child;
- (10) description of the department's reasonable efforts to identify and locate all relatives and conduct home studies with any fit and willing relative expressing an interest in providing permanency for the child;
- (11) number and names of siblings to the child, and whether such siblings are placed in the same or different households;
- (12) case plan(s);
- (13) court orders, including all attachments;
- (14) advanced calendar of expected court hearings;
- (15) notices of judicial hearings;
- (16) contact information for all parties and service providers to the case.

[8.26.7.11 NMAC - Rp 8.26.7.9 NMAC, 3/12/2019]

8.26.7.12 DESIGNATION OF CASES FOR REVIEW: No later than June 30 of each year, the council shall designate priority criteria for reviews for the subsequent fiscal year. Such criteria shall include consideration of the importance of:

- A. sibling placements;
- B. the frequency and severity of neglect or abuse;
- C. the behavioral health status of household members;
- D. the placement of children in households where there are no relatives of the children;
- E. data related to demographics, and
- F. relevant trend data.

[8.26.7.12 NMAC - Rp 8.26.7.13 NMAC, 3/12/2019]

8.26.7.13 OPERATIONS OF BOARDS:

- A. Staff shall coordinate and facilitate boards for case reviews.
- B. No person shall serve on a board prior to completing the application process established by the council.
- C. No person shall serve on a board that involves a case review of a member's relative or a case for which a real, perceived, or potential conflict of interest exists.
- D. A board shall meet at least quarterly in each judicial district to review cases designated for review. A board may meet more frequently at the discretion of staff.
- E. A board shall have no fewer than two members, and no more than five members.
- F. To the extent possible, the composition of each board shall be broadly representative of the community in which the board meets.
- G. Staff will provide notice of board meetings to the known parties in a case scheduled for review, and afford those entitled to receive notice in the case an opportunity to participate in the board meeting.
- H. Prior to each board meeting, staff will provide board members with case information.
- I. Staff will submit a report of the board's findings and recommendations to the court and other parties entitled to receive notice of the review.
- J. Staff may attend or designate a member to attend any judicial review on a case designated for review and comment to the court.

[8.26.7.13 NMAC - Rp 8.26.7.8 NMAC, 3/12/2019]

8.26.7.14 INFORMATION TRACKING AND REPORTING:

Staff will report the following to the council by September 1st and at other times as requested, ensuring that reports contain no confidential information:

- A. Number of cases reviewed;
- B. Number of cases where the board concurred and did not concur with the department's progress

towards permanency, including a description for the reason for the determination of concurrence or non-concurrence;

C. Recommendations to the department, the council, the administrative office of the courts, and the interim legislative committees identified by the council;

D. Proposed amendments to 8.26.7 NMAC, if any; and

E. Any other information requested by the council.

[8.26.7.14 NMAC - N, 3/12/2019]

HISTORY OF 8.26.7 NMAC: [RESERVED]

History of Repealed Material:

8.26.7 NMAC, Citizen Substitute Care Review, filed 1/27/2017 - Repealed effective 3/12/2019.

Other History:

8.26.7 NMAC, Citizen Substitute Care Review, filed 1/27/2017 replaced 8.26.7 NMAC, Citizen Substitute Care Review, effective 3/12/2019.