

TITLE 8 SOCIAL SERVICES
CHAPTER 27 FOSTER CARE
PART 6 CHILD PLACEMENT AGENCY LICENSING STANDARDS

8.27.6.1 ISSUING AGENCY: Children, Youth and Families Department Protective Services Division
[8.27.6.1 NMAC - N, 11-1-2002]

8.27.6.2 SCOPE: Any individual, partnership, association or corporation, resident of New Mexico, undertaking to place a child in a home in this or any other state for the purpose of foster care or adoption of the child.
[8.27.6.2 NMAC - N, 11-1-2002]

8.27.6.3 STATUTORY AUTHORITY: The Children, Youth and Families Department is authorized to promulgate regulations for the Child Placement Agency Licensing Act, NMSA 1978, Section 40-7A-1 et seq. (1981, 1998, 1999) pursuant to NMSA 1978 Section 9-2A-2 (A), the Act establishing CYFD.
[8.27.6.3 NMAC - N, 11-1-2002]

8.27.6.4 DURATION: Permanent
[8.27.6.4 NMAC - N, 11-1-2002]

8.27.6.5 EFFECTIVE DATE: November 1, 2002
[8.27.6.5 NMAC - N, 11-1-2002]

8.27.6.6 OBJECTIVE: These standards supplement and are used in conjunction with the Child Placement Licensing Act. The purposes of the regulations are to:

- A.** Authorize CYFD to license and monitor agencies that place children in adoptive homes or in foster care so that the safety, permanency, and well being interests of the child are served.
 - B.** Authorize CYFD to prescribe standards for application and operation of the agency to set forth the rights of children in foster/adoptive placement and compliance with the New Mexico Adoption act and regulations, the New Mexico Children's Code, the Indian Welfare Act, the Adoption and Safe Families Act, the Hague Convention, the Interstate Compact on Placement of Children, the Multi-ethnic Placement Act, the Uniform Child Custody Act, and all other applicable statutes, compacts and regulations.
- [8.27.6.6 NMAC - N, 11-1-2002]

8.27.6.7 DEFINITIONS:

- A.** **“Abuse and Neglect Check (A/N check)”** means a check of the Family Automated Client Tracking System(F.A.C.T.S.) to determine if the individual has a history of substantiated abuse and/or neglect.
- B.** **“Act”** means the Child Placement Agency Licensing Act, NMSA 1978, Section 40-7A-1 et. seq.
- C.** **“Adoption Agency”** means an agency licensed by CYFD to facilitate the adoption of a child or performs a function with in the adoption process.
- D.** **“ASFA”** means the Adoption and Safe Families Act, Public Law 103-89.
- E.** **“Advisory Board”** means that group of persons who make programmatic recommendations to the governing body of the agency.
- F.** **“Applicant”** means an individual, partnership, unincorporated association or corporation who makes written application to become a licensed child placement agency in the state of New Mexico.
- G.** **“Application”** means the submission of information to an agency which prompts the agency to begin the licensing or certification process of the family, i.e., gathering of information, fingerprinting, beyond the initial review of an application form.
- H.** **“Audit”** means the review of an agency, as prescribed in these standards, for the purpose of determining if the standards outlined in these regulations are met.
- I.** **“Child Placement Agency”** or **“Agency”** means any CYFD licensed individual, partnership, association or corporation, for profit or non-profit, undertaking to place a child in a home in this or any other state for the purpose of providing foster care or adoption services.
- J.** **“Client”** means an individual or individuals who receives services from an agency, including a child pending adoption.
- K.** **“Corrective Action”** means action taken by CYFD with regard to the agency to correct

deficiencies or non-compliance to CYFD's policies, procedures and standards and/or the Child Placement Agency Licensing Act.

- L.** “**Criminal Records Check (CRC)**” means federal, state and local checks for criminal offenses.
- M.** “**CYFD**” means the children, youth and families department of the state of New Mexico.
- N.** “**Foster Care Agency**” means an agency licensed by CYFD for the purpose of supervising foster care homes, treatment foster care homes, foster care and treatment foster care homes, and/or other levels of foster care as developed by CYFD.
- O.** “**Full Disclosure**” means mandatory and continuous disclosure of all known non-identifying information regarding the child to the adoptive or foster parent(s) by the agency prior to and throughout the placement of the child.
- P.** “**Governing Body**” means a group of five or more persons in which the ultimate authority and legal responsibility are vested, and execute and bind any decision for an agency. A governing body may also be known as the board of directors.
- Q.** “**Home Study**” or “**Pre-Placement Study**” means the development of a comprehensive assessment to be used in preparation of licensing a foster home or certification of an adoptive home, as described in the Adoption Act regulations, 8 NMAC 26.3.18.2.
- R.** “**Hague Convention**” means the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption.
- S.** “**Inter-country Adoption**” means any adoption in which the sending country and receiving country are different.
- T.** “**Legal Risk**” means an adoptive placement where birth parents or other individuals may have legal rights that have not been fully extinguished at the time of placement. The prospective adoptive parents are fully informed of the legal circumstances prior to the placement.
- U.** “**Matching**” means the process by which a placement is selected to best meet the needs of the child.
- V.** “**Minor Deficiencies**” means those deficiencies that do not impair the safety, permanency or well being of a child in the agency's care.
- W.** “**Permanency Plan**” means a plan of intervention for the permanent placement of a child, as defined under ASFA.
- X.** “**Placement**” means the point in time when the child is legally placed in the foster or adoptive home.
- Y.** “**Post Placement**” means the period of time between the placement of a child in an adoptive home and the issuance of a decree signed by a judge ordering the adoption.
- Z.** “**Post-adoption**” means any time following the entry of an adoption decree by the court.
- AA.** “**Pre-adoption**” means the period of time before the entry of the adoption decree by the court.
- BB.** “**Provider of Services**” means anyone, agency or individual, providing a service to an individual or family.
- CC.** “**Substantial Compliance**” means all licensing standards have been complied with and that only minor deficiencies exist which do not impair the safety, permanency or well being of a child in the agency's care and that the agency is in compliance with New Mexico Adoption act and regulations, the New Mexico Children's Code, the Indian Child Welfare Act, the Adoption and Safe Families Act, the Hague Convention, the Interstate Compact on Placement of Children, the Uniform Child Custody Act, or any other applicable statutes, compacts and regulations.
- DD.** “**Variance**” means to refrain from pressing or enforcing compliance with a portion(s) of these regulations for an unlimited period of time provided the health and safety of children, families, and/or staff are not compromised. Variances are issued at the sole discretion of CYFD.
- EE.** “**Waive/Waiver**” means to refrain from pressing or enforcing compliance with a portion(s) of these regulations for a limited period of time provided the health and safety of children, families, and/or staff are not compromised. Waivers are issued at the sole discretion of CYFD.
[8.27.6.7 NMAC - N, 11-1-2002]

8.27.6.8 RULES OF CONSTRUCTION:

- A.** The definitions in the Act shall apply to the Child Placement Agency Standards.
- B.** The words "shall" and "will" are mandatory and "may" is permissive or discretionary.
- C.** Words importing the singular number may be extended to several persons or things. Words importing the plural number may be applied to one person or thing.

D. The Adoption Act Regulations, 8 NMAC 26.3, Licensing Standards for Foster Care, 8 NMAC 27.3, and the Child Placement Agency Licensing Standards, 8.27.6 NMAC, are applicable and are cross referenced, unless otherwise noted. The Child Placement Agency Licensing Standards are first when conflict may occur between regulations or standards.

E. Adoption and foster care agencies are not permitted to interpret parts of these regulations as being inapplicable to their organization or the services they provide to children and families.
[8.27.6.8 NMAC - N, 11-1-2002]

8.27.6.9 TYPES OF AGENCIES AND LICENSES:

A. Types of Agencies: An applicant may be licensed as an adoption agency and/or foster care agency.

B. Types of Licenses:

(1) Standard License: A license is granted to an agency when CYFD verifies that the applicant/agency is in substantial compliance with the licensing requirements. An agency in substantial compliance is directed to correct minor deficiencies. A license may be issued for a period of one (1) to three (3) years.

(2) Six Month License: A six (6) month license may be issued when CYFD determines the agency is in compliance with licensing requirements with regard to the safe provision of services to children, but has substantial documented deficiencies, and

(a) The agency submits a written work plan, approved by CYFD, to correct the deficiencies;

(b) Deviations from the licensing requirements do not substantially affect the agency's ability to provide services that are required under applicable standards for issuing and maintaining a license, and children are otherwise safe; and

(c) The applicant can meet the licensing requirements within six (6) months from the date of issuance of the six (6) month license. CYFD makes a site visit at least (2) two months prior to the expiration of the six (6) month license, or more frequent visits, to determine that the agency is moving toward correcting the deficiencies.

C. Duration of Standard License: An applicant's first license may only be issued for a maximum of one (1) year. If the agency continues to meet all licensing requirements, CYFD may elect to license the agency for a standard license. A standard license may be issued for one (1) to three (3) years. If all regulations have been met during the current audit, a license may be issued for two years, and up to three years when the agency's most recent license was issued for two years.

D. License Extensions: If an agency requests to be re-licensed, and holds a current standard license, and an audit is not conducted prior to or on the date of expiration of the present license, the most recent license may remain in effect for a period of up to three (3) months. The extension allows for the completion of the audit and determination if a new license is issued or, in the case of an agency closure, to allow for the timely transfer of families and/or children. Upon the request of the agency, CYFD issues a letter extending the license for the determined amount of time, not to exceed three (3) months.

[8.27.6.9 NMAC - N, 11-1-2002]

8.27.6.10 INITIAL LICENSE:

A. Application: Any individual, group or organization requesting consideration for a license as a child placement agency submits a completed application to CYFD. When reapplying, the applicant fully addresses all issues upon which any past denial is based and provides an outline of how each issue has been addressed.

B. Any individual, group or organization intending to conduct inter-country adoptions shall comply with the Hague Convention and all New Mexico laws, standards and regulations.

C. The signed application from the governing body shall include:

(1) The proposed name and location of the agency;

(2) A statement of purpose including:

(a) The type(s) of child placements the applicant agency intends to provide;

(b) The geographic area the applicant agency expects to place in and/or serve;

(c) The type(s) of services provided pertinent to the placement process; and

(d) The type(s) of services to be offered outside of the placement process.

(3) Copies of the qualifications for all staff and contract providers shall be included in the application and shall include the following current employee information:

(a) Name(s), address(s) and telephone number(s);

(b) Resume(s);

(c) Criminal Records Checks: the applicant conducts a records check and abuse and neglect check on all potential employees. The criminal records check and abuse neglect standards for foster home licensing applies for all employees;

(d) References: at least three references are obtained, including previous employer and/or professional colleagues, for each applicant hired. The applicant agency documents all telephone and/or in-person contacts. Each letter of references is followed up by a phone call by the agency. Documentation of references, with date and type of contact, are included in the employee's personnel file, and

(e) Abuse and Neglect Checks: the applicant conducts abuse and neglect checks on all employees through applicable CYFD regulations and policies as set forth in 8.8.3 NMAC. The standards for foster home licensing apply to all employees.

(4) The applicant agency provides a brief history of the existing organization, if the agency existed prior to the present application, including geographic areas of operation, services provided and any applicable current accreditation and affiliations.

(5) The applicant agency provides in the application a copy of the policies and procedures for families and staff that address the following:

- (a) Profit or non-profit status;
- (b) Reports of abuse or neglect on children in the agency's care;
- (c) 24 hour coverage in cases of emergency;
- (d) Procedures to address medical care of children and adults;
- (e) A complete list of fees for services;
- (f) Procedures for refunds;
- (g) Rights of clients;
- (h) Grievance process and resolution;
- (i) Affiliations and philosophy of the organization;
- (j) Procedure for filing complaints with regulatory agencies;
- (k) Discipline of children in the care of the agency;
- (l) Discipline/corrective action of foster or adoptive families;
- (m) Gifts to staff;
- (n) Family applicant process; and
- (o) Personnel policies (conflicts of interest, conflict resolution between staff; and families).

(6) Policies and procedures that address the following:

(a) Protecting Children: Acknowledgment of responsibility to protect the safety of children and the rights of families and for requiring that agency staff report, as mandated by the New Mexico Children's Code NMSA 1978, 32A-4-1 et. seq., all suspected incidents of abuse and neglect involving children in the agency's care. The agency shall also advise the child's social worker when the child is in the department's custody;

(b) Right of Confidentiality: Acknowledgment of responsibility not to disclose the identity or the name of a client, including photo images, location, or any other specific information concerning the client's personal, medical or social history, or any information the disclosure of which might be detrimental to a client. An agency complies with CYFD's request to review, in advance of public distribution, copies of materials intended for public distribution, if the child is in CYFD's custody or subject to Children's Mental Health and Developmental Disabilities Act;

(c) Fees: How the schedule of fees charged is changed by the agency and distribution to CYFD following issuance of the license;

(d) Rights for Families: How the applicant meets the requirements set forth in Subsection F of 8.27.6.14 NMAC and that the agency maintains an acknowledgment of rights, with original signatures, in the foster or adoptive parent file;

(e) Certification and Licensing: Criteria for initial certification and licensing and re-certification and licensing of families;

(f) Full Disclosure: The informed consent form for client signature that explains the client's rights, as out lined in Paragraph (8) of Subsection E of 8.27.6.16 NMAC;

(g) Training: A plan for training of staff and foster parents and the method of tracking that the training is accomplished;

(h) Review Process: How grievances and incidents of risk are reviewed for correction;

(i) Detailed Services: Subsections A and B of 8.27.6.13 NMAC are applicable and shall be included; and

(j) Emergency Plans: Procedures which address the safety of children who may be harmed

while in the care and control of the agency or its providers. The plan states the course of action followed in the event a child is harmed, without regard to how the incident occurred, and states the lines of authority and the decision making process to assist in the reporting and investigation of these matters.

(7) Compliance with the following personnel requirements:

(a) Minimum Staff: The application includes a list of staff positions which, at a minimum, identifies one staff member who is designated as the executive director. The executive director may also fulfill the role of placement supervisor and placement worker;

(b) Executive Director: The executive director of a placement agency meets the requirements set forth in Paragraph (1) of Subsection A of 8.27.6.17 NMAC.

(c) Placement Supervisor: A placement supervisor meets the requirements set forth in Paragraph (2) of Subsection A of 8.27.6.17 NMAC; and

(d) Placement Worker: The placement worker meets the requirements set forth in Paragraph (3) of Subsection A of 8.27.6.17 NMAC.

(8) A plan for 24 hours a day agency accessibility to CYFD's social workers for agencies with foster homes.

(9) Personnel Policy and Procedures: The applicant agency maintains a written personnel policy and procedure manual. The personnel policies, at a minimum, address the following information;

(a) Job descriptions which outline the duties and responsibilities of all staff;

(b) Job qualifications for all positions;

(c) Job benefits, work hours, and leave policies for each position;

(d) Conflicts of interest;

(e) Confidentiality, including the requirement for a signed acknowledgment of confidentiality by each employee, contractor, or volunteer, as set forth in Paragraph (6) of Subsection C of 8.27.10 NMAC;

(f) Background and criminal records checks;

(g) The organizational structure, demonstrating sufficient ratios of personnel, consultants, providers or contracted personnel, with the appropriate qualifications and availability, to enable it to provide all elements of the required service, including clerical services necessary to maintain correspondence, records, bookkeeping, and files current and in an organized order;

(h) The ratio of full time placement supervisors to placement workers supervised is a maximum of 1:7; and

(i) How clerical services, to keep correspondence, records, bookkeeping, and files current and organized, are maintained.

(10) Documentation concerning financial operations:

(a) A statement of financial responsibility from a certified or registered public accountant which demonstrates that the applicant has access to sufficient funds to provide services for a minimum of six months;

(b) A letter from a certified or registered public accountant stating that a bookkeeping system is in place and a process of financial review or audit is completed at the end of each fiscal year; and

(c) A projected six (6) month operating budget.

(11) A signed statement from the governing body acknowledging responsibility for placement and monitoring of children in homes approved by the agency for such placement and that they are responsible for:

(a) Monitoring risks that may expose the organization to liability;

(b) Risks that may expose the organization to liability; and

(c) Risks that may reveal unsatisfactory service.

(12) Rules governing the governing body, advisory boards and all sub-committees.

(13) Copies of any applicable legal documents, constitution, by-laws and articles of incorporation.

(14) Disclosure of affiliations and parent holding companies, to include financial, religious, professional and political affiliations. Disclosure of such state how services are rendered and to whom the services are made available.

(15) The names and addresses of the governing body and the advisory board.

(16) Any other relevant information CYFD requests.

D. Agency License: A license is granted or denied based upon the application and upon the Division's review, assessment and determination that the applicant is, or is not, in compliance with these regulations and the requirements outlined in the Act. Inter-country adoption agencies comply with all requirements of the Hague Convention. As a condition of receiving a license, the applicant's proposed policies and procedures and proposed manner of operation shall be in compliance with all applicable laws, regulation and standards and are in

writing. Contemplated changes, additions and revisions to the original application are sent to CYFD for approval before implementation. CYFD may request, in writing and by certified mail, additional information to support the application. The requested information shall be submitted within thirty (30) calendar days of notification. An application is not complete until all information requested is received.

(1) Approval: CYFD notifies the applicant, in writing, of approval of the application for a license. Notice is by registered mail sent to the address shown on the application within ninety (90) calendar days after receipt of the completed application.

(2) Denial: CYFD notifies the applicant, in writing, of denial of the license. Notice is sent by registered mail to the address shown on the application within ninety (90) calendar days after receipt of the completed application. The applicant may be denied a license if the requirements for licensing are not met or if a history of license revocation, suspension, denial or penalties or other corrective actions which are based on complaints substantiated by the regulatory body or by a court of competent jurisdiction in any state where the agency has operated exists. A notice denying the license states the reasons for the denial, informs the applicant of the right to appeal and informs the applicant of the appeal process, 8.27.6.20 NMAC, Appeal Rights.

[8.27.6.10 NMAC - N, 11-1-2002]

8.27.6.11 OFFICE IN NEW MEXICO: CYFD does not issue a license unless the applicant or agency maintains an office and sufficient staff, as described in Subparagraph (g) of Paragraph (9) of Subsection C of 8.27.6.10 NMAC, in New Mexico. Both the executive director and placement supervisor must work in the New Mexico office. An agency must operate from a street address in New Mexico and have sufficient office space to protect and maintain confidentiality of client information and agency operation. The agency must have established and posted hours of operation.

[8.27.6.11 NMAC - N, 11-1-2002]

8.27.6.12 AGENCY OPERATIONS:

A. The licensed agency complies with applicable federal and state statutes and acts, compacts, conventions, and regulations, and with applicable licensing regulations of CYFD.

B. The governing body approves written policies for the agency and provides a copy of any changes to CYFD that impact on the licensing and maintenance of adoption and/or foster home procedures. The notifications to CYFD of the proposed changes are in writing regarding the specific revisions for which approval from CYFD is sought. Implementation of policy revisions without CYFD approval which conflict with any part of CYFD's policies, procedures, regulations or standards or applicable laws may result in the emergency suspension of the agency's license and revocation of the agency's license as per 8.27.6.18 NMAC. Changes to the operations as covered in the licensing process, Subsection D of 8.27.6.10 NMAC, are submitted to CYFD.

C. An agency operates in an ethical manner and according to any standards a relevant licensing board promulgates, including, but not limited to the following:

(1) Favoritism: The licensed child placement agency determines if the governing body, advisory board, staff and consultants are favored when applying for or receiving the services of the agency, and if a placement is made with a staff member or board member or consultant, the pre-placement study is conducted by an unrelated licensed placement agency or private person meeting the qualifications set out by CYFD's Adoption Regulations or Licensing Standards for foster care.

(2) Referral Compensation: An agency neither receives nor provides referral fees or other forms of consideration from or to another provider of services.

(3) Conflict of Interest: An agency prohibits its staff, consultants, governing body members or advisory board members to provide private practice services to its applicants, clients or their families. CYFD may review restrictions and suspend the applicability of this restriction if the services were in place sixty (60) days prior to the date of application or intake and the record reflects a finding that it is in the best interest of the individual(s) and why it is in their best interest to maintain the professional relationship. No one may provide foster care services or adopt a child for whom he/she has any case management responsibility.

(4) Gifts: Gifts are not given or received between clients and staff and agencies that exceed \$50.00.

(5) Continuity of Services: An agency provides continuity of services for the children in their care. Care is not interrupted as a result of fiscal considerations:

(a) A foster family may move from one agency to another when both agencies agree it is in the best interest of the children in the home. If children are in the home, both agencies provide written documentation, to CYFD social worker in the case of children in the custody of CYFD or the legal guardian when the child is not in the custody of CYFD, that the transfer of the home is in the best interests of the child (ren) currently in the home,

Paragraph (3) of Subsection E of 7.20.11.29 NMAC. To maintain continuity of services, applicable documentation for issuing a license by the new agency is provided by the old agency. Each agency sets a fee schedule, to be filed with CYFD and made available to foster parents and other child placement agencies, for each item of documentation. Such costs may not be more than the actual cost incurred in development and copying the documentation and is not the responsibility of the foster family. The charges are the same, or lower, than fees the agency would charge if the service were provided on a private basis.

(b) Movement of an adoptive family from one agency to another is at the discretion of the adoptive parents prior to a child's placement. In cases of inter-country adoption, movement of the adoptive family does not occur after an agency has identified and sponsored a child for the family. The request to transfer from one agency to another is made in writing to the agency that initially certified the family. When the adoptive parents have paid the applicable fees for each item and when written notice of the transfer has been filed with the original agency, documentation leading to certification is sent to the new agency. A service fee may be charged by the agency that initially certified the home for processing a request for the information to be sent to another agency. Release of any documentation to the prospective parents is at the discretion of the agency under applicable laws.

(c) No foster care home may be licensed or certified for placement by more than one agency and/or CYFD.

(d) All foster care and adoption agencies use the format for home studies or pre-placement studies outlined in the Adoption Act regulations.

D. Fiscal Accountability:

(1) Financial statement availability: An agency maintains complete financial records. A copy of an agency's financial statements, which demonstrates the financial condition of the agency, is submitted to CYFD with the agency's license renewal request.

(2) Donations and Charitable Contributions: An agency maintains complete records of any donations of money or property received by the agency. The records shall include representations made by the solicitor concerning how such donations would be used and documentation that the funds are spent according to the stated purposes. The agency also documents unsolicited donations and how the donations are utilized or spent.

(3) Independent Accountability: The agency has an annual review conducted by an independent certified public accountant. Such records are submitted to CYFD with the agency's license renewal request.

(4) Audit: CYFD may conduct an unannounced audit of any agency, as deemed necessary. Such audit may be conducted or contracted by CYFD. The agency fully cooperates with CYFD.

E. Advisory Board/Governing Board/Board of Directors:

(1) The governing board membership:

(a) For an adoption agency: An adoptee, a biological parent of an adoptee, or an adoptive parent; an individual with a degree in social work or associated field of behavioral science and development and a minimum of two years of paid full-time experience in family evaluation and child behavior and development; and a person who resides in the community in which the agency is located.

(b) For a foster care agency: A person who is currently, or who has been, a licensed foster parent; a person with a degree in social work or associated field of behavioral science and has a minimum of two years of paid full-time experience in family evaluation and child behavior and development; and a person who resides in the community in which the agency is located. It is also recommended that a biological parent of a child that has been in foster care be included or an adult who remembers the experience an out of home placement as a child.

(c) For an agency licensed as both an adoption and foster care agency: The membership designated for an adoption agency and a currently licensed foster parent or person who has been a licensed foster parent.

(d) No voting member of a board shall be an employee or have a financial interest in the agency.

(e) Each member of the governing board shall sign a statement of responsibility, as outlined in Paragraph (11) of Subsection C of 8.27.6.10 NMAC, at the beginning or renewal of their term.

(2) An advisory board may be constituted as a committee of the governing body. An advisory board acts in an advisory capacity only. The advisory board membership may be as designated by the governing board, but does not have any supervisory or policy decision making authority.

[8.27.6.12 NMAC - N, 11-1-2002]

8.27.6.13 DESCRIPTION OF CHILD PLACEMENT AGENCY SERVICES:

A. Adoption Services: The agency maintains a detailed description of the agency's adoption services

and procedures applicable to those services. The description includes, but is not limited to, adoptive and foster home assessments; relinquishment procedures; matching procedures; provision for medical services for the birth mother and the child, and post-relinquishment medical services for the child until adoptive placement occurs; services for adoption applicants and biological parents; placement and post-placement services; management of adoption disruptions; finalization procedures; and post decree services.

B. Foster Care Services: The agency maintains a detailed description of the services provided to the children and families who are served by the agency, as well as the agency's foster care services. The description includes, but is not limited to: recruitment, training and assessment of foster parents; the placement process; documentation of contacts between child and biological family; the interaction of the agency with the child's family of origin and with the foster home; documentation of efforts made to reunite the child with his/her family when appropriate, and the permanent plan. All services to be rendered shall comply with the court order, if the child is not in the custody of the parent(s).

C. Relinquishments of parental rights:

(1) Relinquishments taken by an agency comply with the provisions of the New Mexico Children's Code, NMSA 1978, 32A-5-17 through 32A-5-24.

(2) If an individual contacts an agency to relinquish his or her parental rights, the agency shall make diligent efforts to locate and obtain consent of the non-presenting parent. Diligent efforts include attempts to locate any court records pertaining to a divorce, separation, paternity, or custody action, a search of the putative father registry and a search of CYFD's record and all other efforts that may be reasonable under the circumstances. The agency also obtains and maintains documentation establishing the parental rights of the presenting parent. A signed release of information allowing the agency to conduct searches is obtained to allow the agency to determine that an outstanding custody order which prohibits the parent(s) from acting independently is not in effect. Such a search shall be diligent and encompassing of all jurisdictions in which the child has resided since birth. The agency does not take any action to place the child for adoption until such time as the agency has determined that parental rights or court jurisdiction do not exist or have been legally removed. This does not preclude the agency from placing the child in a legal risk adoption home. Should there be concern for the welfare of the child due to the parents' inability to care for and protect the child, the agency notifies CYFD's Statewide Central Intake.

(3) An agency does not use coercion or deception to obtain a relinquishment of parental rights from a parent. The relinquishment is freely and voluntarily given by the biological parent(s).

(4) A consent/relinquishment of parental rights is taken before a court of competent jurisdiction if there is any reason to believe:

(a) that the parent does not understand the meaning or consequences of the consent/relinquishment; or,

(b) that the consent/relinquishment may not be voluntary.

(5) An agency's payment to, or in behalf of, a relinquishing parent is limited to the actual costs associated with the adoption and conform to all provisions of New Mexico law. If any agency becomes aware of an illegal payment by any agency or individual, the agency notifies the court hearing the adoption petition and/or CYFD.

D. Placements: An agency establishes minimum criteria for selecting and studying prospective adoptive and foster families, which comply with the Child Placement Agency Act, Adoption Act, adoption act regulations and/or licensing standards for, foster care.

E. Change in Placement: When a change in a child's placement is contemplated, the agency works with the guardian and/or parents to determine if the placement change is in the best interest of the child.

(1) An agency does not make a change in placement, except in cases of an emergency, of the child without the concurrence of the guardian and/or parents, and the Guardian ad Litem, if applicable. If the placement change is agreed upon, the agency placement worker arranges for:

(a) All of the child's belongings to be transferred with him/her, including clothing, personal belongings, the child's medical and educational records, and the child's life book.;

(b) Notification of Placement Change: When the child's placement is changed, including a return to the child's home for a trial home visit, the agency, in addition to concurrence by the guardian and/or parents, notifies the Guardian ad Litem (GAL) at least ten days prior to the change of placement. If the child in question is in state custody, the child's social worker will also notify the children's court attorney, the child's CASA, any interveners in the legal case, and the court, as indicated in the New Mexico Children's Code, and

(c) Documentation of the change in placement in the child's agency record.

(2) The placement worker notifies the child of the placement change. The guardian and/or parents may choose to be a part of the disclosure to the child. The placement worker is responsible to give medical,

education, and psychological information to any subsequent placement provider.

(3) An emergency change in placement may occur only when mental health issues of the child or caretaker require the immediate change and/or for the safety of the child due to a referral of abuse or neglect against the caretaker/s. In the case of the child's mental health issues, this may require placement in a more restrictive setting due to identified safety risks to the child in the current placement. The agency notifies the guardian and/or parents concurrently with the change of placement, unless circumstances preclude such and are documented in the child's record. For children in state custody, if the removal occurs after regular working hours, the agency notifies Statewide Central Intake.

F. Movement of Homes between Agencies: A foster or adoptive home may move from one agency to another, but conforms with continuity of services as in Paragraph (5) of Subsection C of 8.27.6.12 NMAC. Such movement is not considered a transfer. The license issued by the new agency is considered a new license and conforms to all licensing standards. It is the responsibility of the receiving agency to review the existing file and incorporate copies, if provided, of all required information in the receiving agency's file. All missing information must be developed and the home study is updated prior to issuance of the foster home license or adoption approval. Treatment foster home moves conform to the Certification Requirements for Child and Adolescent Mental Health Services, 7.20.11 NMAC.

[8.27.6.13 NMAC - N, 11-1-2002]

8.27.6.14 AGENCY PROTOCOL: It is the responsibility of each agency to be aware of and conform to the following:

- A. Interstate Compact on the Placement of Children: An agency shall comply with the Interstate Compact on the Placement of Children (ICPC) for all placements that are covered by the ICPC.
- B. Indian Child Welfare Act: An agency shall comply with the Indian Child Welfare Act.
- C. Multi-Ethnic Placement Act: An agency shall comply with the Multi-Ethnic Placement Act (MEPA).
- D. Adoption and Safe Families Act: An agency complies with the Adoption and Safe Families Act (ASFA) with regards to children in the custody of CYFD and as otherwise described in these standards.
- E. Inter-ethnic Placement Act: An agency shall comply with the Inter-ethnic Placement Act (IEPA).
- F. Rights for Families: An agency establishes an administrative review process available to any family or individual whom the agency refuses a license, re-license or approval for adoption. As part of the denial notification, the agency provides the specific reasons for the denial decision in writing to the family or individual. The agency's administrative review process reflects the process established for foster and adoptive homes licensed by CYFD. Complaints that the agency is not following the administrative review process are investigated by CYFD.

[8.27.6.14 NMAC - N, 11-1-2002]

8.27.6.15 INTER-COUNTRY ADOPTIONS:

- A. An agency conducting inter-country adoptions adheres to all requirements of the state of New Mexico as well as the requirements of the sending country. These requirements are made a part of the policy and procedures of the agency and include, but are not limited to:
 - (1) Pre-adoption requirements
 - (2) Post-placement requirements
 - (3) Post-adoption requirements
- B. Requirements and conditions of the Hague Convention, as ratified by Congress, are incorporated into the policies of the agency within time frames as set by Congress, or within ninety (90) days from ratification if no time frame is given.

[8.27.6.15 NMAC - N, 11-1-2002]

8.27.6.16 RECORDS AND REPORTS

- A. Separate records are kept for foster parents, adoptive parents, and the child/family of origin. The child's record may be combined with the family of origin until such time as an adoptive placement is made. At the time of the adoptive placement, the child's record is separated, removing all identifying information of the family of origin. Case records are continuously updated and easily accessible to the agency staff and CYFD.
- B. All client case records are confidential and are to be used and released according to applicable provisions of New Mexico law.
- C. Adoptive parent and foster parent records are kept in accordance with standards set forth in the Adoption Act Regulations, 8 NMAC 26.3, and/or Licensing Standards for Foster Care, 8 NMAC 27.3, including,

but not limited to:

(1) The agency maintains in the file the annual clean well water certification if the home uses well water as a water source.

(2) The agency maintains in each file the home safety checklist. The home safety checklist is updated annually at recertification. This form may be requested from CYFD, but is, at a minimum, to reflect each safety category as developed by CYFD and outlined in foster care licensing standards and adoption regulations.

(3) The agency maintains a current copy of all criminal record checks and abuse/neglect checks. Requests for abuse/neglect checks are made to CYFD using the authorized form and are signed by the potential adoptive or foster parent, and are notarized. The agency renews state and local criminal records checks annually, and the FBI fingerprint check and abuse/neglect check every two years.

(4) The agency is to maintain in each file the original home or pre-placement study and all subsequent updates or addendum. These are filed in sequence. In addition, the foster or adoptive parent record contains a separate documentation section which lists each placement in the home including the name of child, dates of placement, the reason for a child's removal from the home, and, if a disruption occurs, the foster or adoptive parent's analysis of what occurred. The highest-ranking clinical supervisor to the social worker for the case includes his/her analysis of the placement and the reasons for the disruption, if applicable. This will be used during the matching of the foster or adoptive parent to prospective foster or adoptive children.

D. In accordance with ASFA requirements for the reporting and tracking of abuse and neglect in foster homes, all foster homes are registered with CYFD.

(1) Registration is immediate upon the licensing of the home and prior to the agency placing a child in the home.

(2) The agency notifies CYFD within 10 days of a home being de-licensed.

(3) All homes licensed prior to the effective date of the regulations are registered with CYFD within 30 days of promulgation.

E. Child's Record: The record of the adoptive and/or foster child contains the information required by the Adoption Act, Licensing Standards for Foster Care, the Adoption Act Regulations, for inter-country adoptions, the Hague Convention, and the following:

(1) These requirements apply to all children in the care of a licensed child placement agency and are not restricted to children in the custody of Department.

(2) Placement History Section: A placement history section containing a chronological summary of the child's placements, including the name(s) and address(es) of the foster home(s) of all the child's placements, the dates of each placement and the child's adjustment to each placement, including progress, problems and their resolution, and reasons for removal, disruption, and/or replacement. The placement history records all formal and informal placements since birth:

(a) For children placed in foster homes, this section shall record in detail the reason a child is moved from one home to another, i.e., specifics regarding the child's behavior, family problems.

(b) For children placed in adoptive homes, this section contains the name and address of the adoptive parents and a description of the child's adjustment in the home up to the time of filing of the post-placement report.

(c) For foster and adoptive homes, this section includes all documented efforts to secure the all placement information, such as letters, telephone calls to the social worker or parents.

(3) Placement Plan: If a child is in an alternate placement for over six (6) months awaiting adoptive placement, that child's placement plan may be reviewed every six (6) months by CYFD. Such review is documented in the child's case record.

(4) Progress Report for Foster Children: The notes reflect the child's activities, behaviors, school issues, medical issues and emotional state and the foster parent's observations of the child. Progress notes are, at a minimum, updated on a weekly basis.

(5) Education: The agency complies and maintains documentation of the child's education status, needs and history. The documentation includes information provided by the school to the agency and is updated, at a minimum, each semester and the signed confidentiality statement of the surrogate parents.

(6) Medical: The agency compiles and maintain documentation of the child's medical needs, medications and history.

(7) Matching: The agency documents in the child's file the process used to determine that the child was being placed appropriately, including the care givers' attributes and deficits as they relate to the child's needs.

(8) Full Disclosure: The agency documents in all child records, information required by 32A-5-3(J). The disclosure of information shall be documented on a form developed by the agency consistent with Adoption Act

Regulations, 8 NMAC 26.3.18.4. The form documents that information is available, given and understood, or what information is not available, to the foster or adoptive parent.

(9) Permanency Plan: The child's permanency plan is documented clearly, and is described in accordance with CYFD policy, 8.10.8.8 NMAC. It is the agency's responsibility to know the plan and document accordingly. Department children shall have the plan as designated by the court. In the case of children not in department custody, the agency shall staff and designate the plan.

(10) Quarterly Report: A report of services is included in the record. The report summarizes the services provided, home and office visits, treatment needs, issues, and prognosis, relationship with foster parents, current medical and school information, and the child's progress toward discharge. If the child is dually diagnosed, the plan to address both diagnoses is included. Any written report covering these topics applies, but must be identified as such. Each report includes the permanency plan, using CYFD's definitions. The reports shall be subdivided into the identified sections. The report is provided to CYFD social worker at least quarterly and includes dates of all professional staff visits to the child and the location of the visit.

F. Children in Department Custody: Treatment foster care case planning is reflective of the case plan developed by CYFD and is never in conflict with CYFD case plan or current court orders. Whenever possible, the treatment foster care coordinator attends staffing meetings with department staff to determine that the case plans are consistent.

G. Closed Files: Adoption and foster care records are retained at the agency in locked files for at least five (5) years from the date of case closure. All records are preserved either through microfilming, electronic retention, or by forwarding the cross-referenced or combined records to CYFD for permanent storage in state archives, or by retaining such records within the agency. In the event an agency is closed or goes out of business, the agency will deliver to CYFD all copies of its client and administrative records. Contents and organization of case materials within each record are kept in accordance with all applicable laws, regulations and conventions.

H. Administrative Records: Administrative records are current, readily accessible, and show the location and identity of all children and families being served. Any and all portions of such files pertaining to the identity of the child are confidential.

I. Quarterly Reports: An agency submits to CYFD a quarterly statistical report of the services provided by the agency for the first year of operation. After renewal of the agency's standard license, the agency submits semi-annual reports to CYFD. These reports are prepared on forms provided by CYFD and shall include:

- (1)** Foster home statistics:
 - (a)** The number of applications received.
 - (b)** The number and types of foster home applicants licensed by type.
 - (c)** The number of applicants denied.
 - (d)** The number of licenses revoked.
 - (e)** The number of applications pending at the end of the reporting period.
 - (f)** The number of applications withdrawn.
 - (g)** The names of all family members of all homes transferring to other agencies and the receiving agency and the reason for the transfer. Should foster children reside in the home, the report shall also document how continuity of care was maintained.
 - (h)** The number of foster homes operating under the agency's supervision at the end of the reporting period.
 - (i)** All complaints, incidents and abuse neglect reports, with complainant's identifying information, made regarding specific homes or the agency and information regarding resolution of such.
 - (j)** Any other specific data requested by CYFD.
- (2)** Adoptive home statistics to be included in the quarterly report:
 - (a)** The number of applications received from prospective adoptive parents during the reporting period.
 - (b)** The number of applications denied.
 - (c)** The number of applications withdrawn.
 - (d)** The number of adoptive studies pending.
 - (e)** The number of agency adoptive studies approved and waiting.
 - (f)** The number of agency adoptive studies not approved.
 - (g)** The number of agency adoptive studies withdrawn.
 - (h)** All complaints, with complainant's identifying information, made regarding the agency.
 - (i)** The names of homes transferring to other agencies and the reasons given.
 - (j)** Any other specific data requested by CYFD.

- (3) Foster children statistics included in the quarterly report:
- (a) Number of children placed in foster care during the reporting period.
 - (b) The number of foster children discharged from placement during the reporting period.
 - (c) The number of foster children remaining in foster care placement at the end of the reporting period.
 - (d) The number of children removed from one foster home and placed in a different foster home licensed by the agency.
 - (e) The number of children removed from one foster home and placed with another agency's foster home.
 - (f) The number of children removed from one foster home and placed in a hospital, RTC, group home, or shelter during the reporting period.
 - (g) The identity (first name and last initial) and date of placement of those children who have been in foster care for more than six months.
 - (h) The legal custodian(s) of those who have been in foster care for more than six (6) months.
 - (i) Any other child-specific data requested by CYFD.
- (4) Adoptive Children Statistics included in the quarterly report:
- (a) The number of children freed for adoption.
 - (b) The number of children physically placed with adoptive parents;
 - (c) The number of adoption disruptions.
 - (d) The number of adoptions finalized.
 - (e) Any other child-specific data requested by CYFD.
- (5) Inter-country adoptive home statistics to be included in the quarterly report:
- (a) Number of children identified for placement.
 - (b) Names of children and adoptive families and identifying information of children physically placed.
 - (c) Number of children referred and waiting for physical placement.
 - (d) Names of children and families where there has been a report of abuse/neglect, the disposition of the investigation and if the report resulted in the child being removed from the adoptive home.
 - (e) Names of children and families where a disruption has occurred or is in the process, the plans for the child, the new adoptive home, if any, and what efforts were made to assist in avoiding the disruption.
 - (f) Any other child-specific data requested by CYFD.
- (6) Each agency attaches to their quarterly report a list of applicants and their status and a separate list of foster parents or adoptive parents who maintain a license or certificate for adoption.
- J.** Independent Services Statistics: The relevant statistics as described in Subsection I of 8.27.6.16 NMAC shall be submitted for all services provided by the agency. The types of services, include, but are not limited to, adoptive and foster home assessments, matching procedures, parent training, placement, and adoption post-placement and post-decree services.
- K.** The treatment foster care agencies, adoptive agencies and CYFD only may access information in 8.27.6.16 NMAC, Records and Reports.
[8.27.6.16 NMAC - N, 11-1-2002]

8.27.6.17 PERSONNEL QUALIFICATIONS AND PROCEDURES:

- A.** The staff of an agency includes, at a minimum an executive director and a placement supervisor, and may include placement workers. The positions of executive director and placement supervisor may be held by the same individual that provided the person meets the minimum qualifications for the higher position.
- (1) Executive Director: The executive director of a placement agency works in the New Mexico office and is able to demonstrate through documentation, knowledge of child welfare services and the circumstances which children and families experience in the substitute care or adoptive process. The minimum acceptable requirements of the executive director of an agency are:
- (a) A graduate degree from an accredited college or university program in one of the following fields: social work, clinical psychology, family studies, marriage and family therapy, guidance and counseling, or counseling. Another related degree may be accepted by CYFD provided the applicant can demonstrate, through certified transcripts, that the degree is equivalent to one of those named.
 - (b) A minimum of two years experience providing social services in a licensed child placement agency or a state child placement agency with at least one (1) year of supervisory experience.
- (2) Placement Supervisor: A placement supervisor is required to possess a bachelors degree from an

accredited college or university program in the following fields; social work, clinical psychology, family studies, marriage and family therapy, guidance and counseling, or counseling. Another related degree may be accepted by CYFD provided the applicant can demonstrate, through certified transcripts, that the degree is equivalent to one of those named. The placement supervisor works in New Mexico. A placement supervisor has at least one (1) year of experience providing social services in a licensed child placement agency or a state child welfare agency.

(3) Placement Worker: The placement worker has a minimum of a bachelor's degree from an accredited college or university in social work, psychology, family studies, guidance and counseling, or counseling. Another related degree may be accepted by CYFD provided the applicant can demonstrate through certified transcripts that the degree is equivalent to one of those named.

B. References: At least three (3) professional/character references are obtained by an agency for each potential professional employee prior to his or her employment. One of these references is from the previous employer and/or a professional colleague who has direct knowledge of the qualifications of the potential employee. The agency documents in the personnel file all telephone or in person contacts.

C. Criminal Records Check: An agency conducts a criminal record check and abuse and neglect check on all potential employees. The standards for foster home licensing apply to all employees. The complete criminal records check is conducted every fifth year of continuous service thereafter. The criminal records check is conducted in accordance with procedures set forth in the Adoption Act Regulations, 8 NMAC 26.3. The agency takes appropriate action with regard to a criminal record discovered during the five-year period between criminal records checks.

D. Employment History: An agency obtains a relevant employment history on each potential employee prior to employment and verifies requisite experience or document attempts to accomplish such in the personnel file.

E. Not Retroactive: The educational and experience requirements contained herein do not apply to individuals continuously employed by an agency on or before the effective date of these regulations.

F. Personnel Policy: A copy of the agency's personnel policy is given to each employee at the time of employment. Documentation that the policy was given to the employee is maintained in the personnel file.

G. Staff Training: An agency documents a minimum of 15 hours of training relevant to the position, per year, for each of the agency's full-time professional employees, and ten hours of training relevant to the position, per year, for each of the agency's part-time (20 hours or less) professional employees. All applicable licensing requirements apply, which may lead to more hours than the requirements of CYFD, but shall not be less. The agency maintains in the contract employee file proof of license that reflects the level of work contracted for with the individual.

H. Employee Personnel File: A personnel file is maintained for all employees of the agency, and shall be available to CYFD for inspection. Each file includes, at a minimum:

- (1) Application:** The employee's employment application showing qualifications and experience.
- (2) Academic Transcripts:** The official academic transcripts.
- (3) Disciplinary Actions:** Documentation of any disciplinary action taken with respect to any

employee.

- (4) Evaluations:** Any evaluations of work performance.
- (5) Criminal Record Check Results:** The results of the criminal records check as issued by CYFD.
- (6) Abuse and Neglect Checks:** The results of a check of CYFD's management information system.
- (7) Training:** Documentation of training name, where held, purpose/content and hours.
- (8) License:** A copy of an employee's professional license when applicable.
- (9) Abuse and neglect reporting:** A signed statement of understanding by the employee of the requirements to report suspected abuse and neglect.

(10) Child Placement Agency Standards: A signed statement by the employee of their receipt of the standards, laws, and conventions pertaining to the operation of a child placement agency.

(11) Confidentiality: Any individual who is employed by agency shall sign a statement acknowledging the confidentiality rights of the children and families that are or may become clients of the agency. The written confidentiality statement shall be kept in the individuals file.

I. Volunteer and Contractor File: A separate file is maintained on each individual or agency not employed by the agency, but conducting business on their behalf and includes, but is not limited to:

(1) Contract: The contract, which outlines the specific requirements, qualifications and experience and limitations of the contract.

(2) Academic Transcripts: The official academic transcripts of individuals working under the contract, if required under the contract.

- (3) Disciplinary Actions: The agency documents all problems in the file and all actions taken regarding the contracted agency or individual.
 - (4) Evaluations: Any evaluations of work performance.
 - (5) Criminal Record Check Results: The results of the criminal records check as issued by CYFD.
 - (6) Abuse and Neglect Checks: The results of a check of CYFD's management information system.
 - (7) License: A copy of the current professional license, if required under the contract.
 - (8) Abuse and neglect reporting: A signed statement of understanding by the contractor of the requirements to report suspected abuse and neglect.
 - (9) Child Placement Agency Standards: A signed statement by the contractor of their receipt of the standards, regulations, laws, and conventions pertaining to the operation of a child placement agency.
 - (10) Confidentiality: Any individual or agency who volunteers for or is contracted by the agency signs a statement acknowledging the confidentiality rights of the children and families that are being served by or may become clients of the agency.
- [8.27.6.17 NMAC - N, 11-1-2002]

8.27.6.18 CYFD SUPERVISION

- A.** CYFD retains the right to call meetings and/or training for adoption agencies, foster care agencies or foster care and adoption agencies. The agency is responsible for all information given out during the meeting. Not attending the meeting is not construed as reason for not having the information.
- B.** All information regarding licensed agencies is available to other state departments and divisions and other states conducting licensing of agencies and the placement of children.
- C.** Investigation Authority: In order to evaluate the safety and continuity of care for children placed with the agency, CYFD can:
 - (1) Enter, inspect, and photograph the agency's or applicant's offices and physical facilities.
 - (2) Inspect and copy all agency financial records, files, papers, and correspondence which pertain directly or indirectly to the issuance and maintenance of the license and the issuance and maintenance of foster home licences and/or adoption certificates.
 - (3) Interview, as CYFD deems appropriate, agency staff, consultants, contractors, foster parents, adoptive parents, governing body and advisory board members, and any other agency personnel, volunteers and clients.
- D.** Scope of Supervision and Investigation: Inspections and interviews relate to referrals of abuse/neglect, licensing requirements, or complaints received by CYFD related to the operation of the agency, and may be conducted at any required time, with or without prior notice or agreed upon appointment.
- E.** Investigations of Abuse/Neglect Referrals:
 - (1) CYFD investigates all accepted reports of allegations of abuse or neglect involving foster parents and pre-adoption parents regarding children placed in their home, when the home is licensed or approved by CYFD or is a home of a child placement agency licensed by CYFD. When the report is accepted for investigation, the priority is an emergency.
 - (2) All reports of abuse and/or neglect are considered exigent in nature. Allegations not appropriate for investigation by CYFD are referred to law enforcement and the prevention and intervention division, with notification to the assigned social worker or legal guardian for a safety assessment.
 - (3) An assigned referral for investigation regarding a home that is licensed by an agency is regarded as a referral on the home. Decisions regarding the allegation of abuse or neglect are made regarding the home.
 - (4) No new placement may be made in the home during a pending investigation. Existing placements in the home are evaluated for safety, with a decision for maintaining the placement dependent on the continued safety of the child.
 - (5) All referrals regarding homes licensed by an agency are also referred to the licensing and certification unit in the prevention and intervention division and to licensing in the protective services division.
- F.** Allegations of Abuse or Neglect and/or Complaints Regarding an Agency: CYFD investigates allegations of violations of policy, procedures and/or licensing regulations. Complaints are only investigated when directly related to violations of these regulations. Allegations of abuse and/or neglect regarding an agency (agency staff) are considered a possible policy violation. Dependent on the allegations, an investigation of the agency by CYFD licensing personnel may ensue. CYFD determination may result in:
 - (1) No action being taken.
 - (2) A corrective action plan.
 - (3) Suspension of the license pending the completion of a corrective action plan.

(4) Closure of the agency.

G. Notification and Release of Information on Abuse and Neglect Investigations and Complaints:

(1) Allegations of abuse and/or neglect of a child in CYFD custody are handled in accordance with division policy and procedures. Notification to the parties of a referral and subsequent decisions follow investigation policy and procedures.

(2) CYFD, absent an emergency, provides an agency notice of a complaint within 10 working days from receipt of the complaint. The notice contains the nature of the complaint via certified mail to the licensed agency's current address or by personal contact with the executive director of the licensed agency.

(3) A listing of the complaints and the findings of such are kept in each agency's file. Confidentiality is maintained regarding specific individuals who make complaints and any children involved. The nature of a complaint and the finding is released. No specifics or details of an investigation are released, except as requested under the Public Records Act.

(4) CYFD may, upon written request, release to third parties the number of and years of the complaints and substantiated reports of allegations of abuse/neglect against the agency or one of the licensed homes, the number of complaints or allegations that were substantiated, the nature of the complaints or allegations, and compliance by the agency with a corrective action plan.

H. Corrective Action: A corrective action plan may be instituted by CYFD when the agency is out of compliance with the state regulations or as a result of a substantiated complaint. Corrective action is not progressive. At CYFD's discretion depending on the severity of an agency's non-compliance, any of the following actions may be taken:

(1) When there are no safety issues to the children:

(a) Letter of Correction: CYFD licensing staff issues information to the agency outlining the deficiencies, instructing the agency to correct the deficiencies and gives warning of potential division actions. The agency develops a corrective action plan and returns it to CYFD within 10 working days for review.

(b) Corrective Action Plan: CYFD licensing staff directs a program to correct deficiencies within the time frame specified by PSD. The agency submits a written corrective action plan, which addresses the deficiencies and follow the time frame given by CYFD. At its discretion, CYFD may work with the program in the development of the corrective action plan.

(c) Probation, with Restricted Admissions: In addition to a corrective action plan, CYFD licensing staff restricts the program from accepting any new clients or expanding into additional services until the identified deficiencies are corrected. CYFD notifies a licensee when it intends to sanction the agency by placement on probation with restricted admissions in writing. Notice is by certified mail sent to the current address shown on the license, or by personal delivery to the person authorized to accept service on behalf of the agency, at least (10) working days prior to the beginning of the probation. The notice states the reasons for the action, its effective date, and informs the licensee of its right to appeal within ten (10) working days from notice.

(2) When safety issues for children in care exist:

(a) Emergency Suspension of Agency license: CYFD licensing staff temporarily prohibits the operation of the agency by withdrawal of the license when immediate action is required to protect health and safety. This may take place prior to a hearing on the matter and/or correction of deficiencies. Transfer of children and/or licensed homes to other agencies may be required.

(b) Renewal Denial or Revocation of Agency license: CYFD licensing staff may revoke a current license or deny renewal of a license based upon deficiencies related to one or all of the following:

(i) Abuse, neglect or exploitation, as defined in NMSA 1978, 32A-4-2, of a child or client by a licensed home or staff of the agency.

(ii) Presence of, and/or history of, health and safety deficiencies as found by the regulatory/licensing body in current or previous surveys or on-site visits.

(iii) Presence of, and/or history of, license revocation, suspension or denial or penalties or other similar corrective actions taken by a regulatory body or court of competent jurisdiction in New Mexico or another state.

(iv) Noncompliance with state, county and municipality health and safety regulations.

(v) Records which are out of compliance with the prescribed record content or deficiencies that were present in the last review and have not been corrected.

(c) Any action taken against an agency which requires correction are in writing and outline a specific amount of time within which the correction(s) must be completed.

I. Suspension or revocation of license: CYFD may suspend or revoke an agency's license if at any time during the license period a licensee fails to meet or maintain the licensing requirements or fails to provide

information requested by CYFD.

(1) Notice: CYFD notifies a licensee whose license it intends to suspend or revoke in writing. Notice is by certified mail sent to the current address shown on the license, or by personal delivery to the person authorized to accept service on behalf of the agency, at least (10) working days prior to suspension or revocation. In the case of safety concerns for children, immediate removal shall occur, with CYFD then following each step regarding the suspension or revocation. The notice states the reasons for the action, its effective date, and informs the licensee of its right to appeal within ten (10) working days from notice.

(2) Agency Responsibility: When an agency's license is revoked by CYFD for any reason, the agency assists CYFD in arranging for the care, custody and control of any children currently being served, and for the preservation and transfer of records. The agency assists in the transfer of a licensed home, in good standing, to another agency when such would be in the best interest of the child (ren) placed in a different home.
[8.27.6.18 NMAC - N, 11-1-2002]

8.27.6.19 LICENSE RENEWAL PROCESS

A. A license is renewed or terminated based on the agency's written request for renewal and CYFD's review and assessment of agency operations. Lack of a written request, with the required documents attached, shall be interpreted as a voluntary closure.

B. The agency requests renewal of its license by certified letter at least ninety (90) calendar days before the expiration of the current license.

C. Upon request for license renewal, the agency submits to CYFD its financial review or audit, agency board minutes, agency advisory board minutes, and agency statistics for the current licensing period. If changes have occurred with respect to personnel or other operations, the agency submits documentation reflecting such changes with the renewal request. All applicable attachments are included with the request or the request is not considered valid and CYFD shall advise the agency of such.

D. If an agency fails to file a renewal request letter, the license may automatically be terminated thirty 30 days from the expiration date shown on the face of the existing license. The agency will assist in the smooth transfer of the children and families to other agencies, so that there is no disruption in the care of the children.

E. Before renewing an agency's license, CYFD determines that the agency is in compliance with all applicable requirements by conducting an on site visit which includes interviews, case record reviews and visits to the facilities maintained by the agency. CYFD is not responsible for locating documents when files are not kept organized and up to date.

F. If CYFD has received a request for license renewal and fails to decide and notify the agency prior to the expiration date of the present license, a license extension may be issued to the agency for a maximum of ninety (90) calendar days.

G. CYFD notifies the agency in writing of its licensing decision before the expiration date of the existing license or the expiration of the license extension. Notice is by certified mail sent to the current address shown on the license, or by personal delivery to the person authorized to accept service on behalf of the agency, at least (10) working days prior to the action. Arrangements is be made for the immediate removal of children from the agency and placement in an alternate setting. The notice states the reasons for the action, its effective date, and informs the licensee of its right to appeal within ten (10) working days from notice.

[8.27.6.19 NMAC - N, 11-1-2002]

8.27.6.20 APPEAL RIGHTS

A. Appeal Rights: An applicant for initial license or renewal of a license or a holder of a license sought to be denied, suspended, revoked or placed on probation has the right to appeal proposed actions by CYFD regarding the license, as per NMSA 1978, Section 40-7A-6 (1999) and department guidelines.

B. Standing to Appeal: Only the applicant or agency whose license is affected may appeal the division's action regarding the license.

[8.27.6.20 NMAC - N, 11-1-2002]

8.27.6.21 AGENCY VOLUNTARY CLOSURE: When a licensee voluntarily closes its agency, the licensee notifies CYFD in writing at least thirty (30) calendar days before the licensee's closure date. The licensee provides CYFD a written plan summarizing the preparation and arrangements for the care, custody and control of any children currently being served, and makes arrangements for the preservation and transfer of records to CYFD.

[8.27.6.21 NMAC - N, 11-1-2002]

HISTORY OF 8.27.6 NMAC:

Pre-NMAC History:

HSSD 75-7, Minimum Requirements for Licensing of Child Placement Agencies, 9/15/75.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 8/22/86.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 1/29/87.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 6/18/87.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 11/18/87.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 8/22/88.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 3/28/89.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 3/20/90.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 9/18/90.
SSD 5.4.0, Substitute Care for Children, Licensing Standards for Foster Homes, 3/15/91.
SSD 7.5.0, Adoption - Child Placement Agency Regulations, 8/22/86.
SSD 7.5.0, Adoption - Child Placement Agency Regulations, 6/18/87.
SSD 7.5.0, Adoption - Child Placement Agency Regulations, 8/22/88.
SSD 5.5.0, Foster Care Child Placement Agency Licensing Regulations, 12/7/89.

NMAC History:

8 NMAC 27.3, Licensing Standards for Foster Care, 1/13/97.
8 NMAC 27.2, Foster Parenting, 6/16/97.
8.27.2 NMAC, Foster Parenting, 2/1/2001.

History of Repealed Material:

8 NMAC 27.2, Foster Parenting - Repealed 2/14/2001.