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

8.10.2.1 ISSUING AGENCY: Children, Youth and Families Department (CYFD), Protective Services Division (PSD).
[8.10.2.1 NMAC - Rp, 8.10.2.1 NMAC, 3/31/2010]

8.10.2.2 SCOPE: Protective services employees and the general public.
[8.10.2.2 NMAC - Rp, 8.10.2.2 NMAC, 3/31/2010]

8.10.2.3 STATUTORY AUTHORITY: Children, Youth and Families Department Act, 9-2A-7 D, NMSA 1978; New Mexico Children's Code, Section 32A-1-1, NMSA 1978 (2009 Cum. Supp.)
[8.10.2.3 NMAC - Rp, 8.10.2.3 NMAC, 3/31/2010]

8.10.2.4 DURATION: Permanent.
[8.10.2.4 NMAC - Rp, 8.10.2.4 NMAC, 3/31/2010]

8.10.2.5 EFFECTIVE DATE: March 31, 2010, unless a later date is cited at the end of a section.
[8.10.2.5 NMAC - Rp, 8.10.2.5 NMAC, 3/31/2010]

8.10.2.6 OBJECTIVE: To establish provisions for accepting reports of alleged child abuse or neglect.
[8.10.2.6 NMAC - Rp, 8.10.2.6 NMAC, 3/31/2010]

8.10.2.7 DEFINITIONS:

A. "Caregiver" is an adult, parent, guardian or custodian in the household who provides care and supervision for the child.

B. "Child abuse and neglect check" is a review of the PSD family automated client tracking system, also known as FACTS, or another state's central abuse or neglect registry to determine if there have been any previous referrals on the family to this state's or any other state's child protective services division.

C. "Child," "children" or "youth" refers to a person who is one of the following:

(1) under the age of 18 years of age; or

(2) up to 21 years of age and participating in the extended foster care program.

D. "Children's Code" refers to the New Mexico Children's Code, Section 32A NMSA 1978.

E. "Child vulnerability" refers to conditions resulting in the child's ability to protect themself from identified danger indicators.

F. "Collateral contact" refers to any person who may be able to provide information to the PSD worker during an investigation of alleged abuse or neglect, concerning the alleged abuse or neglect that would be helpful in assessing child vulnerabilities, danger indicators and parent, guardian or custodian safety planning capacities.

G. "Complicating factors" are conditions that make it difficult for a caregiver to create safety for their child, but do not by themselves constitute imminent danger. Refer to the structure decision making manual to review the list of complicating factors protective services workers use in the New Mexico child safety and risk tool.

H. "Custodian" as defined in the Children's Code, Subsection E of Section 32A-1-4 NMSA 1978, means an adult with whom the child lives who is not a parent or guardian of the child.

I. "CYFD" is the New Mexico children, youth and families department.

J. "Danger indicators" are conditions resulting in a child being exposed to harm or injury and was placed at risk of harm or injury that could occur immediately. Refer to the structured decision making manual to review the list of the ten identified danger indicators protective services workers use in the New Mexico safety and risk assessment tool.

K. "FACTS" refers to the family automated client tracking system (FACTS), the official data and case management system for CYFD.

L. "Family" are caregivers, adults fulfilling the caregiver role, guardians, and others related by ancestry, adoption, or marriage, or as defined by the family itself.

M. "Family Services Division" is the CYFD unit that houses a continuum of prevention services and programs. This may include programs that support safer home environments by improving parenting skills,

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increasing access to mental health, substance, and behavioral health services, and increasing access to early childhood education and care services, as well as improving access to monetary and food assistance programs to keep families intact and to reduce the trauma of removal from the home.

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

O. "Household" are all persons who have significant in-home contact with the child, including those who have a familial or intimate relationship with any person in the home. This may include persons who have an intimate relationship with a caregiver in the household (or partner/significant other) but may not physically live in the home, or a relative whom the caregiver allows authority in parenting and caregiving decisions.

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

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

R. "New Mexico Family Resource Connections (NMFRC)" is New Mexico's preventative program for differential response regarding screened out calls that do not meet criteria for an investigation.

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

T. "Parent" as defined in the Children's Code, Subsection P of Section 32A-1-4 NMSA 1978, includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child.

U**. "Placement"** is an out of home residential arrangement for the care of children in PSD custody, which may include, but is not limited to, brief respite, resource family foster care, relative or fictive kin foster care and treatment foster care, or a facility such as residential treatment center, group home, or emergency shelter.

V. "Polysubstance" Exposure to two or more drugs taken together or within a short amount of time. Both prescription and illicit drugs can contribute to polysubstance exposure.

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

X. "Prioritization" is the assignment of a time frame for PSD to initiate an investigation based upon the reported danger indicators to the child, the age of the child and the safety planning capacities identified in the report (See herein at 8.10.2.13 NMAC).

Y. "Safety Planning capacities" are those assets possessed by the caregiver that reduce or control the identified danger indicators. Refer to the structured decision making manual to review the list of four identified safety planning capacities protective services workers use in the New Mexico child and safety risk assessment tool.

Z. "Protective services division (PSD)" refers to the division within the children, youth and families department, and is the state's designated child welfare agency.

AA. "PSD custody" means custody of children as a result of an action occurring pursuant to the Children's Code, Sections 32A-4-1 and 32A-3B-1NMSA 1978.

BB. "REACH New Mexico" is a PSD confidential texting program available for all children and youth residing in the state of New Mexico.

CC. "Report" is a verbal or written presentation of information alleging child abuse or neglect that is received by an intake worker.

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

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

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

GG. "Screened in report" is a report that has met PSD's criteria for acceptance for investigation or multi-level response.

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HH. "Screened out report" is a report that has not met PSD's criteria for acceptance for investigation or multi-level response.

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

JJ. "Witness" refers to a person who has a firsthand account of an event that is relevant to a PSD abuse and neglect investigation.

[8.10.2.7 NMAC - Rp, 8.10.2.7 NMAC, 3/31/2010; A, Same as previous comment.; A, 9/29/2015; A, 5/25/2021; A, 12/22/2026]

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

A. receive reports of alleged child abuse or neglect;

B. determine if the situation reported may constitute abandonment, abuse or neglect as defined by the Children's Code, Subsection A of Section 32A-4-2, Subsection B of Section 32A-4-2 and Subsection G of Section 32A-4 NMSA 1978;

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

D. determine if a referral to the New Mexico family resource connection (NMFRC) program is warranted; and

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

[8.10.2.8 NMAC - Rp, 8.10.2.8 NMAC, 3/31/2010; A, 2/29/2012; A, 5/25/2021; A, 12/22/2026]

8.10.2.9 ELIGIBILITY:

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

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

[8.10.2.9 NMAC - Rp, 8.10.2.9 NMAC, 3/31/2010; A, 2/29/2012; A, 9/29/2015; A, 5/25/2021]

8.10.2.10 PROVISION OF INTAKE SERVICES:

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

B. PSD intake workers shall accept reports from individuals wishing to remain anonymous.

C. Intake services shall be conducted by CYFD employees designated as PSD intake workers.

D. PSD intake workers shall collect sufficient information from the reporter in order to make a screening decision.

E. PSD intake workers shall assign a priority to screened-in reports as outlined in 8.10.2.13 NMAC.

F. PSD intake supervisors shall review all screening and prioritization decisions.

G. Once approved by the PSD intake supervisor, the intake worker shall assign screened-in, prioritized reports to the appropriate county office for investigation within the timelines established by PSD.

H. Designated PSD intake workers may complete a national crime information center (NCIC) check on alleged perpetrators of child abuse or neglect.

I. PSD intake workers shall send all screened out reports to the New Mexico family resource connection (NMFRC) supervisor.

[8.10.2.10 NMAC - Rp, 8.10.2.10 NMAC, 3/31/2010; A, 2/29/2012; A, 5/25/2021]

8.10.2.11 PROTECTION OF THE IDENTITY OF REPORT SOURCES: PSD workers shall ask the reporting source if they wish to remain anonymous. If so, the reporter's name shall be entered as anonymous and PSD shall protect the identity or identifying information of reporting sources and shall not disclose the reporter's identity, absent the consent of the reporter or a court order.

[8.10.2.11 NMAC - Rp, 8.10.2.11 NMAC, 3/31/2010; A, 2/29/2012; A, 5/25/2021]

8.10.2.12 INTAKE SCREENING DECISION:

A. PSD intake workers make screening decisions on all reports received. Screening decisions shall be made on all reports within established time frames. All screening decisions are staffed with an intake supervisor.

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B. PSD intake workers shall use information received from the reporting source, information from collateral contacts as available, and results of the abuse and neglect check to assist in making the intake screening decision.

C. PSD intake workers utilize the New Mexico safety tool to determine the priority of the screened-in report.

D. PSD intake workers shall ask the reporting source for contact information and shall inform the reporting source of the intake screening decision, if requested by the reporting source.

[8.10.2.12 NMAC - Rp, 8.10.2.12 NMAC, 3/31/2010; A, 2/29/2012; A, 5/25/2021]

8.10.2.13 PRIORITIZATION: Intake workers shall prioritize accepted reports as follows:

A. Emergency report (E): A report alleging a danger indicator involving a vulnerable child, including but not limited to an abandoned infant or child, any physical injury to an infant, a potentially life threatening situation, recent sexual abuse, a law enforcement request for immediate response, and recent serious trauma, such as a head injury, burns, or broken bones. An emergency report requires an investigation be initiated within three hours of the SCI supervisor's screening decision.

B. Priority one report (P1): A report alleging physical injury involving a vulnerable child who is in a safe environment at the time of the report, or a report alleging a danger indicator involving a vulnerable child but where the alleged perpetrator will not have access to the child for the next 24 hours. A priority one report requires an investigation be initiated within 24 hours of the SCI supervisor's screening decision.

C. Priority two report (P2): A report alleging danger indicators involving a vulnerable child with no immediate concern for the child's safety. This may include, but is not limited to, alleged physical abuse with no indication of injury or alleged abuse or neglect where the alleged perpetrator no longer has access to the child or a protective parent guardian or custodian has already intervened. A priority two report requires an investigation be initiated within five calendar days of the SCI supervisor's screening decision.

D. Custody of a safe haven infant: When SCI receives a report that an infant has been left under the provision of the Safe Haven Act at a safe haven site, as defined above at 8.10.2.7 NMAC, the children, youth and families department through its protective services division is deemed to have emergency custody of that infant. Law enforcement is not notified and a law enforcement investigation or 72-hour hold is not required.

E. Substance-exposed Infants: When SCI receives a report involving infants born exposed to methamphetamines, fentanyl, polysubstance, or is exhibiting signs or symptoms of fetal alcohol syndrome, the referral must be screened in as an emergency and assigned for investigation.[8.10.2.13 NMAC - Rp, 8.10.2.13 NMAC, 3/31/2010; A, 2/29/2012; A, 9/29/2015; A, 5/25/2021; A, 12/22/2026]

8.10.2.14 CROSS REPORTING AND NOTIFICATION:

A. PSD intake workers shall cross report all reports to the appropriate law enforcement agency pursuant to the New Mexico Children's Code Section 32A-4-3(B) NMSA 1978.

B. When the alleged perpetrator of abuse or neglect is not a parent , guardian or custodian, the PSD worker shall collect the information from the reporting source and informs them that they will refer the allegation to the appropriate local law enforcement agency.

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

D. When SCI receives a report alleging abuse or neglect of a child residing in a facility, or a child not in custody residing outside of their home, the intake worker shall screen out the report and email the report to the Health Care Authority (HCA) licensing and certification authority and to the CYFD office of inspector general.

E. When the PSD intake worker receives a report that meets a screened-out criteria, they shall send the report to the New Mexico family resource connection program for further evaluation.

[8.10.2.14 NMAC - Rp, 8.10.2.14 NMAC, 3/31/2010; A, 2/29/2012; A, 9/29/2015; A, 5/25/2021]

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

[8.10.2.15 NMAC - N, 9/29/2015]

8.10.2.16 DOCUMENTATION REQUIREMENTS FOR INTAKE:

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

B. PSD shall maintain records of all reports as follows:

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

(2) Accepted reports shall be maintained as part of the investigation case record for 18 years after case closure, as required by Paragraph (2) of Subsection D of 1.18.690.30 NMAC.

[8.10.2.16 NMAC - Rp, 8.10.2.15 NMAC, 9/29/2015]

8.10.2.17 NEW MEXICO FAMILY RESOURCE CONNECTIONS (NMFRC) PROCESS: If a report alleging abuse or neglect meets the criteria established pursuant to section 32A-4-4.1 NMSA 1978, the department shall refer the case to the New Mexico family resource connection (NMFRC) program. The New Mexico family resource connection is a 30 day program within statewide central intake (SCI) that assists in coordinating prevention services to families who do not meet an investigation criteria. All screened out reports shall be referred to the NMFRC program. This program may include an alternative to investigation upon completion of an evaluation that may be completed at intake by the department, the results of which indicate there is no immediate concern for the child's safety.

A. The department may remove a case from the NMRC program if there are any danger indicators identified that place the child in immediate danger. Conversely, the department may reassign a case from investigations to the NMFRC program, at the department's discretion.

B. Each family participating in the NMFRC shall receive a family assessment. Based on the results of the assessment, the department may offer or provide referrals for service. A family member may choose to accept or decline any services or programs offered through the NMFRC program.

[8.10.2.17 NMAC – N, 5/25/2021]

8.10.1.18 REACH NEW MEXICO CHILD AND YOUTH TEXTING PROGRAM: REACH New Mexico is a PSD confidential texting program available for all children and youth residing in the state of New Mexico. REACH NM is a program held within the statewide central intake division. The texting program allows for any child or youth in New Mexico to safely report to PSD if they are the victim of abuse or neglect in their household. A REACH worker shall engage in a text conversation with the child or youth to obtain information and provide support to the youth. After obtaining all of the information, the REACH worker shall either make a SCI report or refer the child or youth to the New Mexico family resource connections (NMFRC) program.

[8.10.2.18 NMAC - N, 5/25/2021]

HISTORY OF 8.10.2 NMAC:

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

SSD Rule #410.0000, Protective Services to Children, filed 11/10/1981;
SSD 4.0.0, Child Protective Services - Definition and Goal Statement, filed 8/22/1986;
SSD 4.0.0, Child Protective Services - Definition and Goal Statement, filed 3/28/1989;
SSD 4.1.0, Child Protective Services - General Provisions, filed 8/22/1986;
SSD 4.1.0, Child Protective Services - General Provisions, filed 1/29/1987;
SSD 4.1.0, Child Protective Services - General Provisions, filed 6/18/1987;
SSD 4.1.0, Child Protective Services - General Provisions, filed 3/28/1989;
SSD 4.1.0, Child Protective Services - General Provisions, filed 9/14/1989;
SSD 4.1.0, Child Protective Services - General Provisions, filed 9/18/1990;
SSD 4.2.0, Child Protective Services - General Guidelines, filed 8/22/1986;
SSD 4.2.0, Child Protective Services - General Guidelines, filed 3/28/1989;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 8/22/1986;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 11/18/1987;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 6/13/1988;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 3/28/1989;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 3/20/1990;
SSD 4.3.0, Child Protective Services - Department Responsibilities, filed 9/18/1990.

History of Repealed Material:

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8 NMAC 10.2, Protective Services Intake, filed 6/16/1997 - Repealed effective 7/30/2004.
8.10.2 NMAC, Protective Services Intake, filed 7/16/2004 - Repealed effective 11/15/2005.
8.10.2 NMAC, Protective Services Intake, filed 11/1/2005 - Repealed effective 3/31/2010.
8.10.2 NMAC, Protective Services Intake, filed 3/31/2010 - Repealed effective 9/29/2015.

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