



Substitute Care Advisory Council (Council)

Legislative Human and Health Services Committee
28 August 2023

NMSCAC



Authority

New Mexico Statutes

- Children's Code
 - Chapter 32A, Article 8
- Executive Department
 - Chapter 9 Article 1, Section 9-1-7

New Mexico Administrative Code

- 8.26.7

Purpose of Article 8 Citizen Substitute Care Review Act

Provide a permanent system for independent and objective monitoring of children placed in the custody of CYFD by

Examining the policies, procedures and practices of CYFD and where appropriate, specific cases to

Evaluate the extent to which CYFD is effectively discharging its child protection responsibilities.

History: *Citizen Substitute Care Review Act*

1983: Joseph A.¹ required citizen review boards by an outside contractor who **'have authority and responsibility to review case plans, report findings and recommendations to the department and to the children's court.'**

1985: Act.

1989: Act amended.

1992: CYFD established.

1993: Children's Code repealed and replaced.

1997: Albuquerque Journal article (Heild) reports CYFD **'drew up legislation'** to eliminate CRBs due to criticism of the agency.³

2014: SAC proposed changes to the Act.

2015: SB 115 pocket vetoed.

2016: SB 49 signed.

2018: Annual report recommends changes to the Act; no legislative action.

2019: Annual report recommends changes to the Act; no legislative action.

2020: Annual report recommends changes to the Act; action taken.

2021: SB 242 unanimously passed; vetoed.

2023: HB 461, Governor supported, included repeal of the Substitute Care Review Act; stalled on the House calendar.

¹Joseph A. by Wolfe v. N.M. Dept. of Human Services, 575 F.Supp.346 (1983).

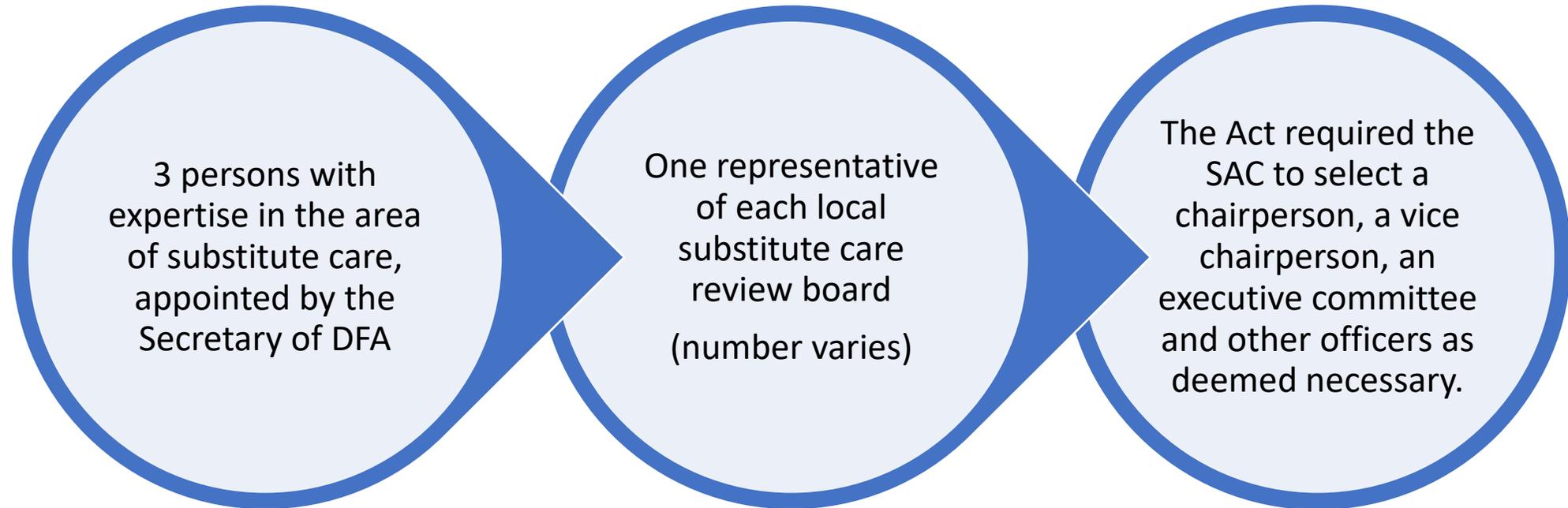
²<https://www.acf.hhs.gov/cb/policy-guidance/pi-98-01>.

³Seeking a Safe Haven, a Journal Special Report, Fifth in a Series, *'Secrecy Thwarts Oversight of Agency Protecting Kids'*, Colleen Heild Journal Investigative Reporter, 1997 Albuquerque Journal .

Citizen Participation

- The Act requires citizen involvement.
- Citizen participation is important because it:
 - Educates citizens regarding child protection system responses;
 - Promotes community-based services; and
 - Prevents an agency from becoming a 'system unto itself'.
- Eligibility requirements include background/reference checks, interview, training, Code of Conduct, confidentiality agreement.
- Citizens who meet eligibility requirements are known as SCAC Members.

State Advisory Committee (SAC)



2017

+
○

Repeals implementation intermediary (32A-8-3)

●
**Substitute Care Advisory Council replaces
State Advisory Committee**

32A-8-4(A)/32A-8-7(D)

Transfers to the Council all functions, records, personnel, appropriations, money, contract funds, funds for contract administration and staff, cost of per diem, travel, training, furniture, property, equipment, supplies and all other costs relating to the Citizen Substitute Care Review Act from DFA.

(32A-8-7)

Substitute Care Advisory Council 32A-8-4(A)

Administratively attached to RLD in accordance with Section 9-1-7 NMSA 1978

An agency attached to a department for administrative purposes only shall:

Exercise its functions independently of the department and without approval or control of the department; Submit through the department: budgetary requests and reports required of it by law or by the governor.

The department to which an agency is attached for administrative purposes only shall:

- (1) provide, if mutually agreed, the budgeting, record-keeping and related administrative and clerical assistance to the agency; and***
- (2) include the agency's budgetary requests, as submitted and without changes, in the departmental budget.***

Unless otherwise provided by law, the agency shall hire its own personnel in accordance with the Personnel Act.

Section
32A-8-4(A)

*“The general purpose of the council
is to
oversee substitute care review boards in their
monitoring of children placed in the custody of
the children, youth and families department
to
identify systemic policy issues regarding
substitute care.”*

Nine Members

Substitute Care Advisory Council

32A-8-4(A)

Cabinet Secretary or
Secretary's Designee of

- (1) PED
- (2) HSD
- (3) DFA
- (4) DOH

Appointed by
the Governor

(5) Two public members who are at least 18 and no more than 30 years of age at the time of appointment and were previously in substitute care.

(6) Two public members who have expertise in the area of child welfare.

(7) One children's court judge.

**Terms of public members shall be three years (32A-8-4(C)).
Act is silent on term of children's court judge.**

Substitute Care Advisory Council History

FY 17

July: Established

November: First meeting

6 members:

**4 cabinet designees,
2 public members with
child welfare expertise**

FY 18

**Children's court
judge appointed**

**Change in 2 cabinet
designees**

**1 public member
resigns**

FY 19

**Dec 2018: 1 public member
resigns leaving no public
members**

**Cabinet designees give
notice of leaving due to
change in governor
administration**

**No meetings Jan-Jun
2019/no cabinet designees**

FY 20

**4 new cabinet
designees (no letters)**

**Children's court judge
continues**

**No public members
appointed**

**No meetings Jan-Jun
2020 (COVID)**

FY 21

**No public members
appointed**

No meetings

Apr – Jun/no quorum

FY 22

**No public members
appointed**

**Children's court judge
resigns July 2021**

**No meetings held/no
appointees**

FY 23

**Sept 2022: 1 public member with child welfare expertise appointed
1 public member between age 18 and 30 with substitute care experience
appointed**

Children's court judge appointed Sept 2022; resigned Oct 2022

Children's court judge appointed Nov 2022

3 changes in cabinet designees

First meeting April 2023

Council August 2023

Sean Scates (Public Member with CW expertise)

Holly Hemminger (Public Member age 18-30 with previous experience)

Daniela Romero (PED)

Betina McCracken (HSD)

Renee Ward (DFA)

Patrick Allen (DOH)

Alma Roberson (Children's Court Judge)

Vacant:

Public Member with CW expertise

Public Member 18-30 with previous experience

COUNCIL STAFF



Kimberly Anguiano, BSW
Las Cruces
2018 – Present
Facilitator



Shelly Bucher, LMSW
Las Cruces
2013 – Present
Director



Ray Villegas
Las Cruces
2016 – Present
Admin Assistant



Mary Younger
Carlsbad
2014 – Present
Facilitator

Council Staff

Name	Position	Email	Phone
Shelly A. Bucher, LMSW	Director	shelly.bucher@rld.nm.gov	505.469.4781
Kimberly Anguiano, BSW	Facilitator	kimberly.anguiano@rld.nm.gov	505.231-5327
Mary Younger	Facilitator	mary.younger@rld.nm.gov	505.469.6830
Ray Villegas	Admin Assistant	raymundo.villegas@rld.nm.gov	575-740-2509

General Contact Information

Email	Phone	Mailing
nm.crb@rld.nm.gov	833.272.2255	PO Box 3204 Mesilla Park, NM 88047

Case Reviews

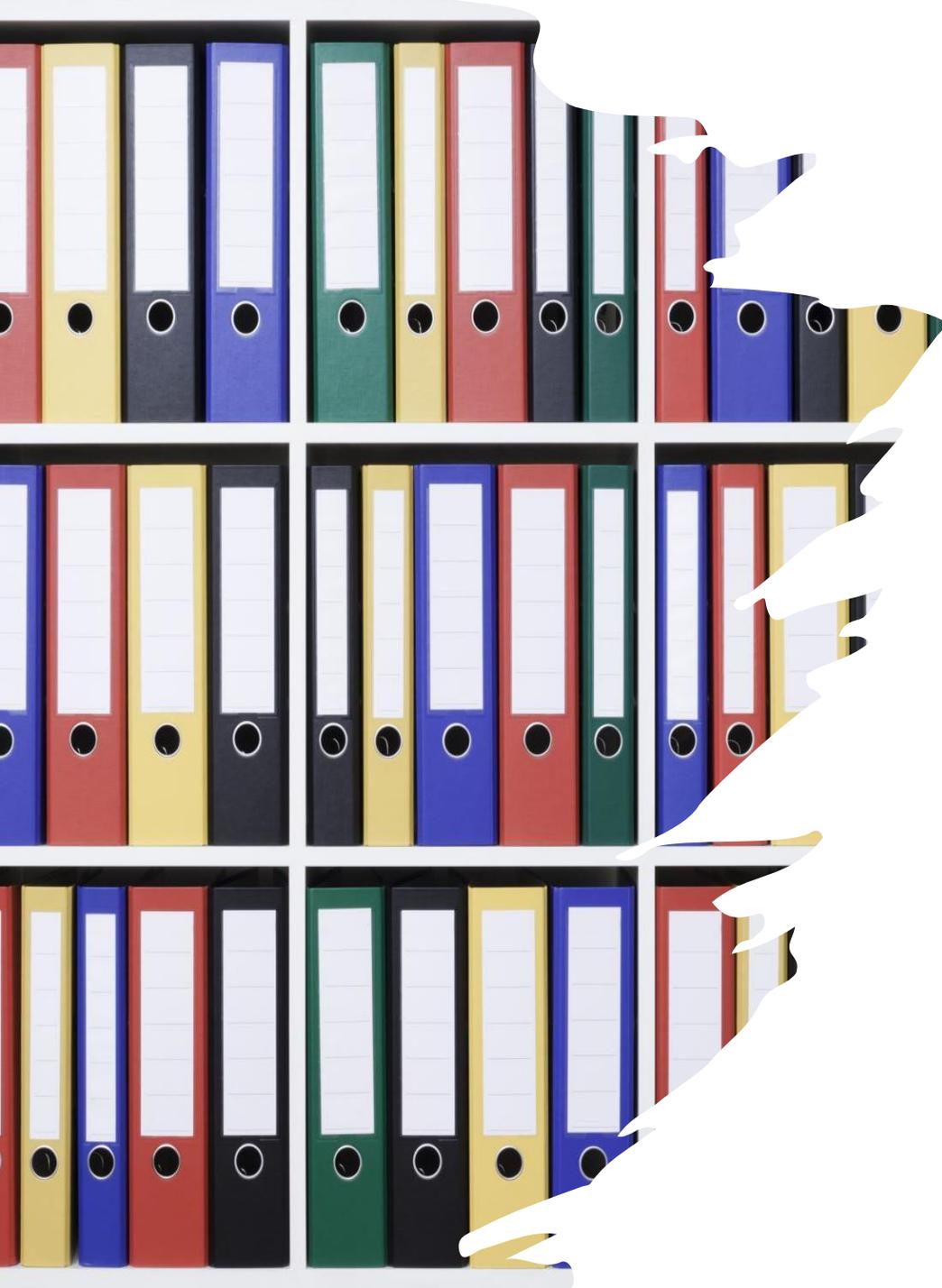
Designated Priority Criteria for Specific Case Reviews

Placements in institutions or congregate care.	Number of changes in placements.
Youth aged 13 – 18.	Sibling groups/sibling splits.
Specifically requested by an Interested Party or community member.	Follow up to past reviews.

At least one child/youth reviewed
per
Judicial District
each
Quarter.

FY 19 Annual Report introduces Quality Services Review (QSR) as a case review model:

- Nationally recognized case-based review process.
- Identifies what is and isn't working at the point of practice.
- Immediate feedback at multiple levels; adjustment to front-line practice.
- Realistic solutions that lead to immediate action.
- Council staff and SCAC member training.



Case Reviews

- Review...
 - Children's Code, Policy & Procedures,
 - Documents,
 - Best Practices, and
 - Interested Party Input (confidential).
- Facilitated meeting with citizen volunteers, identify strengths, concerns and recommendations.
- Per the Act, for every child/youth reviewed a written report is provided:
 - to the court (presiding judge); and
 - Interested Parties.



Substitute Care Advisory Council
Substitute Care Review Board (SCRB)

PO Box 3204, Mesilla Park, New Mexico 88047
 (833) CRB-CALL • nm.crb@state.nm.us

Pursuant to NM Stat § 32A-8-6, Citizen Substitute Care Review Act, the following report is submitted¹.

NOTE: All records or information have/have not been provided to the Substitute Care Advisory Council pursuant to NM Stat § 32A-4².

CASE INFORMATION: D- -JQ-			
Judicial District		Judge	
Last Hearing Date	3	SCRB Previous Report Date	
Next Hearing Date	4	SCRB Report Date	

CHILD/YOUTH INFORMATION							
Names(s)	Gender	Race/ Ethnicity	Date of Birth	Custody Date	Percent of Life in Care	Permanency Plan	Prior CYFD Involvement ⁵

PLACEMENT INFORMATION					
Names(s)	Number of Placements ⁶	Placement Type	Placement Location	Concurrent ⁷	Placed with Siblings

EDUCATION & PSYCHOTROPIC MEDICATION INFORMATION				
Names(s)	Number of School Changes ⁸	EDM Appointed ⁹	Psychotropic Medications	
			Prescribed	CYFD Oversight in Accordance with Policy/Procedure ¹⁰

FAMILY INFORMATION			
Name(s)	Relationship	Location	Status

CYFD CASE WORKER INFORMATION ¹¹				
Number of Previous PPWs	Current PPW Within Last 12 months	Current PPW Number of Cases	Current PPW Number of Children	Current Other Worker(s) for Child/Youth
				12

CASE SUMMARY

- | | | |
|---------------------------|-------------------------------|----------------------|
| Reason for custody. | | Well-Being |
| Prior CYFD involvement. | • Changes in Placement | • Family Connections |
| Adjudication/disposition. | • Education | • Services |
| | • Progress towards Permanency | |

STRENGTHS NOTED

-

CONCERNS NOTED

-

SCRB DETERMINATION		
Names(s)	Concur with Progress Towards Permanency	Basis
SCRB RECOMMENDATIONS ¹³		

PARTICIPATION IN REVIEW

	Role	Provided Input (Yes/No ¹⁴ /NA)
CYFD	Case Worker (PPW)	
	Investigator	
	Placement Worker	
	Adoption Consultant	
	Youth Transition Specialist	
	Supervisor/COM/RM	
Legal	CYFD Children's Court Attorney	
	GAL	
	Youth Attorney	
	Respondent Attorney (Bio-mother)	
	Respondent Attorney (Bio-father)	
	Other Legal	
Family	Youth 14+	
	Bio-mother	
	Bio-father	
	Relatives	
Service Provider	Foster/TFC Parent(s)	
	CASA	
	Other	

Success:
*Case Review
Process*

- Continued without pause during lockdowns, public health emergency restrictions and RLD's major cybersecurity breach.
- Reports inform, educate and provide action-oriented recommendations.
- Provide opportunity for ongoing dialogue with CYFD.
- Requests by interested parties, bio-parents, foster parents for reviews.
- Emerging demonstration of assistance to the judiciary.
- Recommendations provide the Council with the ability to identify trends in CYFD's discharge of its child protection responsibilities.

*Responses to
Reports from
Case Reviews*

*No requirement in the Act
for any entity
to acknowledge receipt of,
or respond to,
reports from case reviews.*



**SUBSTITUTE CARE
ADVISORY COUNCIL**

**ANNUAL REPORT
FY 20**



Adopted October 27, 2020

Annual Report

(Section 32A-8-4(H))

The Council shall:

- *Review and coordinate the activities of the substitute care review boards and make a report with its recommendations to CYFD, the courts and the appropriate legislative interim committees on or before November 1 of each year, regarding statutes, rules, policies and procedures relating to substitute care.*

No report provided for FY 21.

Report for FY 22 delayed.

Responses to Annual Reports

*No requirement in the Act
for any entity
to acknowledge receipt of,
or respond to,
the annual report.*

CAPTA Citizen Review Panels

(Child Abuse Prevention and Treatment Act Section 106.c. Citizen Review Panels)

- **1996: CAPTA Reauthorized; required citizen review panels** as *‘properly established these panels have the capacity to promote creative problem-solving’* and *‘the annual reports have the potential to not only increase resources but better collaboration and system change’*.
- Requires states who receive CAPTA funding to have citizen review panels to evaluate the extent state and local child protection system agencies are effectively discharging their child protection responsibilities.
- Panels are required to have an annual report.
- States are required, within 6 months of the submission date of the annual report, provide a written response which:
 - Describes whether show the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protection system.

Functions

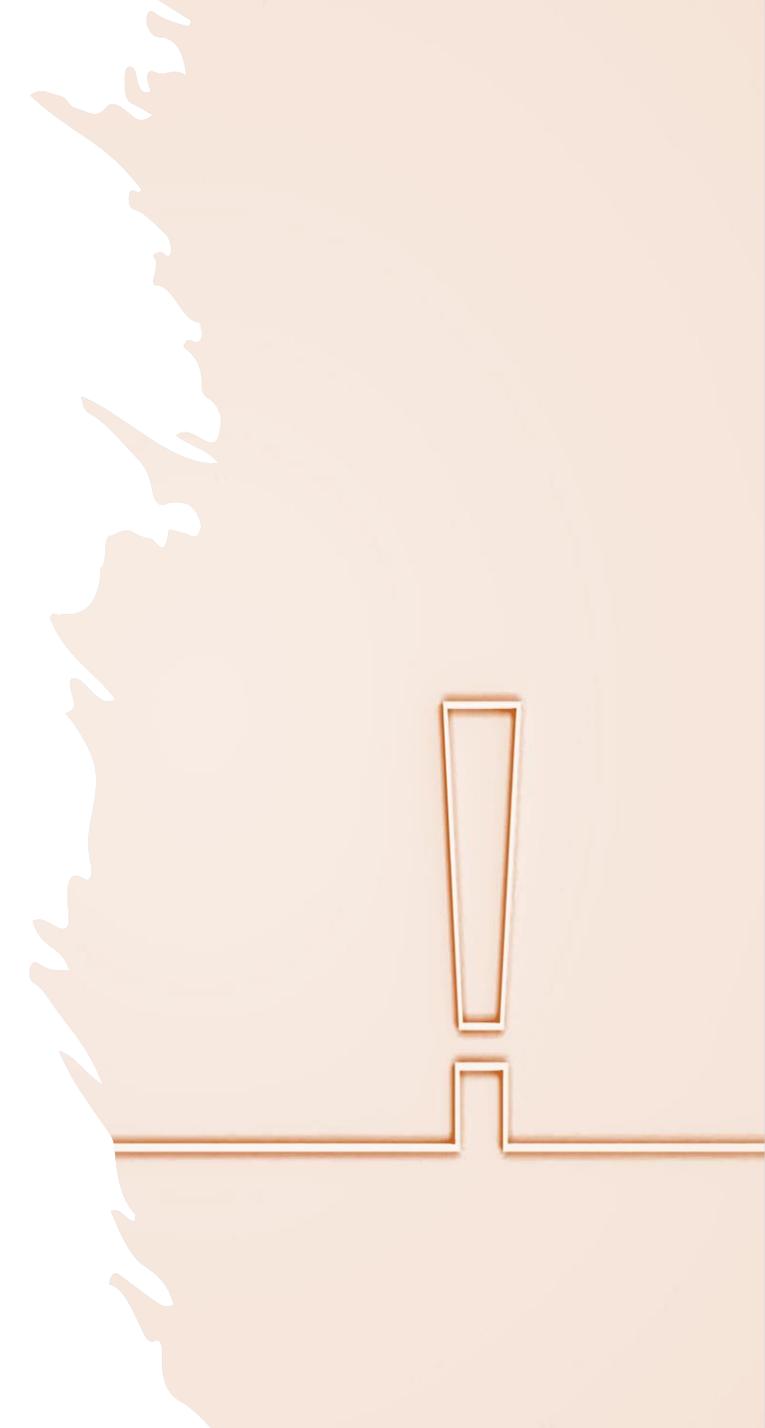
CAPTA Citizen Review Panels

(Section 106.c.4)

Shall, by examining the policies, procedures, and practices of State and local agencies and where appropriate, specific cases, evaluate the extent to which State and local child protection system agencies are effectively discharging their child protection responsibility in accordance with:

- The State plan under subsection (b) of this section;
- The child protection standards set forth in subsection (b) of this section; and
- Any other criteria that the panel considers important to ensure the protection of children, including
 - A review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under part E of Title IV of the SSA; and
 - A review of child fatalities and near fatalities.

Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A).



States are allowed to designate existing entities established under state and federal law to meet the federal requirement.

Some states have both a state law similar to NM Act and separate panels to meet the federal requirement.



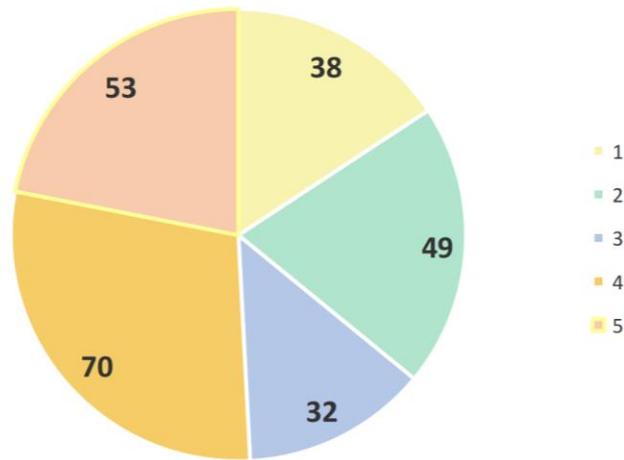
CYFD designated the existing Citizen Substitute Care Review Act to meet its federal requirement.



Council annual reports have noted that CYFD's written responses required under CAPTA are not timely and do not provide the require description of whether or how it will incorporate recommendations.

CAPTA Citizen Review Panels

Number of Children/Youth Reviewed by CYFD Region



Two hundred forty two (242) specific case reviews were conducted, entailing over 1200 interviews and reviewing hundreds of documents. Reviews included children and youth who entered custody with:

- Physical abuse, sexual abuse, and neglect by bio-parents, adoptive parents, relative caregivers or guardians.
- Siblings.
- Prior involvement of CYFD to include previous custody.
- Bio-parents who were incarcerated.
- Bio-parents with criminal charges pending.
- Parents who are deceased.

And after entering custody have:

- Permanent separation from one or more siblings.
- Permanency plans of Reunification, Adoption, Permanent Guardianship, Permanent Planning Living Arrangement (PPLA).
- Placement types of Trial Home Visit (THV), relative/fictive kin, pre-adoptive homes, regular foster homes, Therapeutic Foster Care homes (TFC), ARCA homes, Group Homes, Shelters, Residential Treatment Centers, Juvenile Reintegration Center, Detention and Independent Living.
- Federal changes in placements ranging from 1 to 92.
- Repeat maltreatment.
- Parental rights terminated without adoption resources identified.
- Parent pass away.
- Reconnected with bio-parents whose parental rights have been terminated.
- Medication prescribed.
- Prolonged periods in the care of CYFD.
- Changes in CYFD case workers.
- Juvenile Justice involvement.

Status as of March 2023

Children/Youth Reviewed

242

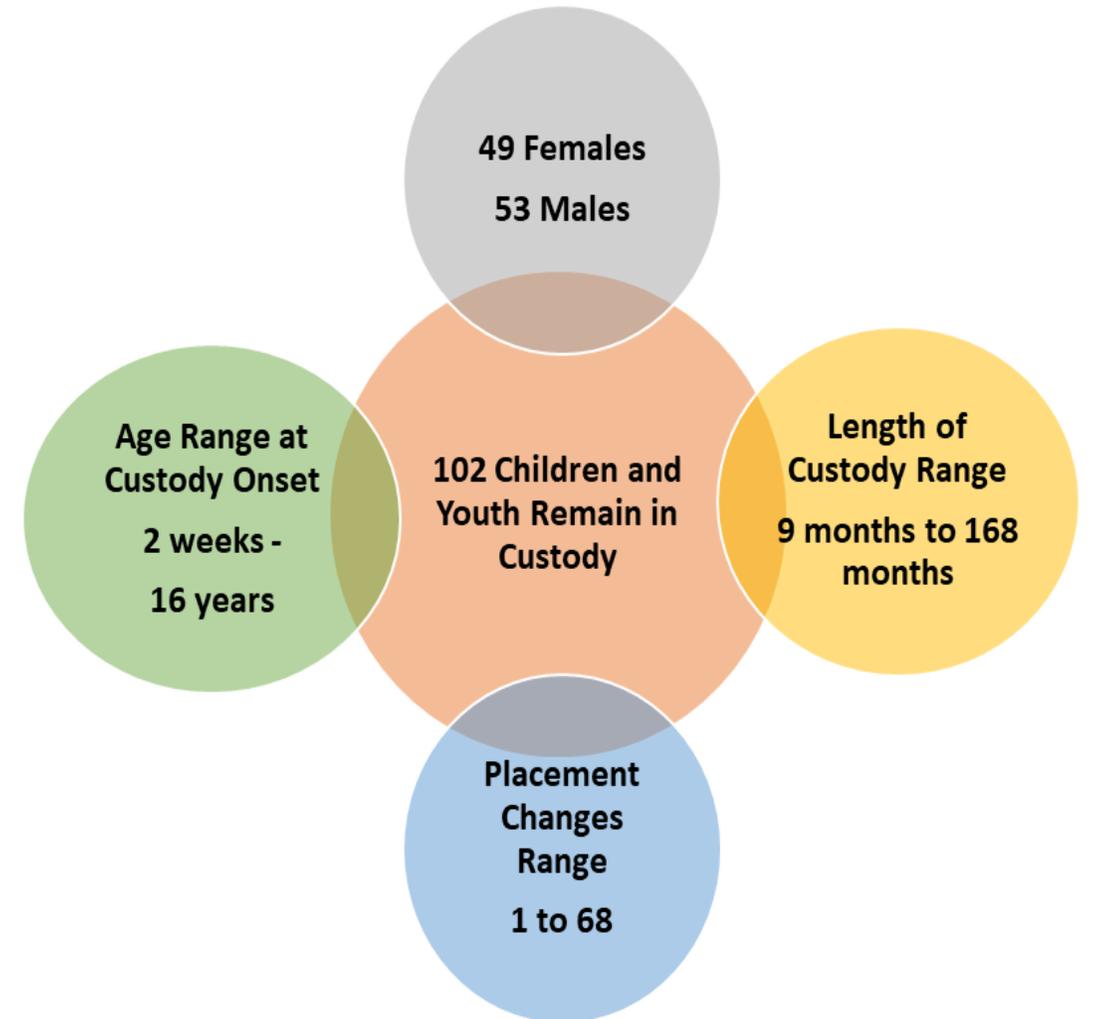
Follow Up Review

56

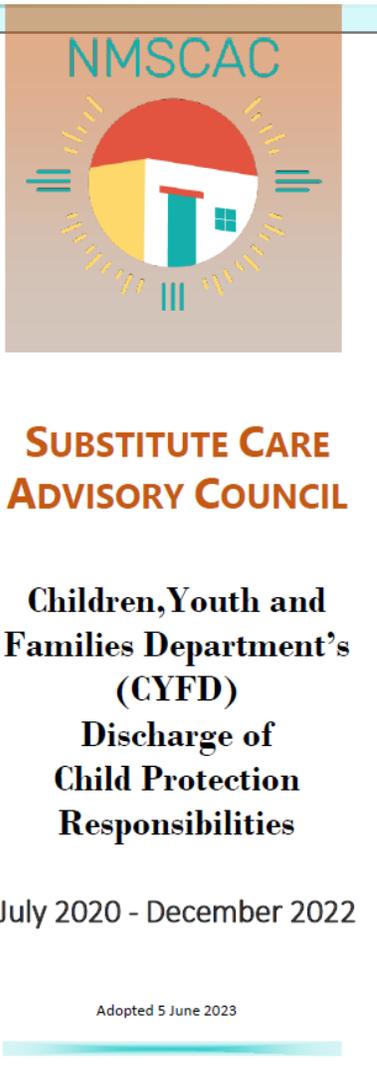
Dismissed

84

Reunification	18
Adoption	34
Permanent Guardianship	5
Emancipation	26
Other	1



Repeated Concerns



- Case Management: Case Plans
 - Do not follow procedures or best practices.
 - Objectives are not behavioral or measurable and may or may not relate to the reason(s) the child(ren) in custody.
 - Not completed with caregiver(s) or signed by the caregivers.
 - Not clearly updated with a changes in a case or prior to a judicial review.
- Changes in Placement
 - Includes non-federal changes in placement change count.
 - Notifications to court.
- Youth Services
 - Case plans do not follow procedures or best practices.
 - Youth services not implemented.
- Psychotropic Medication Oversight
 - CYFD's reports to the court do not include the required information to 24 questions.

Recommendations to CYFD

- ✚ Establish a workgroup to revise standard reports to the court, such as case plans for caregivers, children, youth, transition home plans, discharge plans, life skills plans, individualized adoption plans and reports to the court. Members of the workgroup should at a minimum include representatives of Council staff, CYFD Quality Assurance Unit, CYFD staff (i.e., direct worker, supervisor), youth, and legal representatives (i.e., Guardian ad Litem, Youth Attorney, Respondent Attorney, CYFD Children’s Court Attorney).
- ✚ Develop a protocol for review of data for accuracy prior to dissemination and for review for confirmation or correction as needed when data is questioned.
- ✚ Revise psychotropic medication oversight procedures to include expectations of evaluation of responses to the required 24 questions in court reports.
- ✚ Review and revise policy and procedure regarding change of placement notifications to result in specific information to include in notices.
- ✚ In collaboration with the Public Education Department (PED), co-lead a workgroup to develop protocols to ensure that Best Interest changes in school settings meet state and federal requirements.



SUBSTITUTE CARE ADVISORY COUNCIL

**Children, Youth and
Families Department’s
(CYFD)
Discharge of
Child Protection
Responsibilities**

July 2020 - December 2022

Adopted 5 June 2023



**SUBSTITUTE CARE
ADVISORY COUNCIL**

**Children, Youth and
Families Department's
(CYFD)**

**Discharge of
Child Protection
Responsibilities**

July 2020 - December 2022

Adopted 5 June 2023

Repeated Concerns

- Access to information.
- Accuracy of monthly case lists provided.
- Prior CYFD involvement.
- No response to reports from case reviews.
- Response to annual report required by CAPTA not timely or complete.

Recommendation

CYFD establish a Memorandum of Understanding with the Council which includes, but is not limited to:

- the work of the Council meeting CYFD's CAPTA requirements for citizen review panels,
- procedures for sharing information,
- update of policy and procedures regarding the Substitute Care Advisory Council,
- procedures for responding to reports following case specific reviews,
- procedures for responding to Council annual reports,
- including Council staff on task force, workgroups,
- CYFD Secretary participation in Council meetings as a non-voting member.



SUBSTITUTE CARE ADVISORY COUNCIL

**Children, Youth and
Families Department's
(CYFD)**

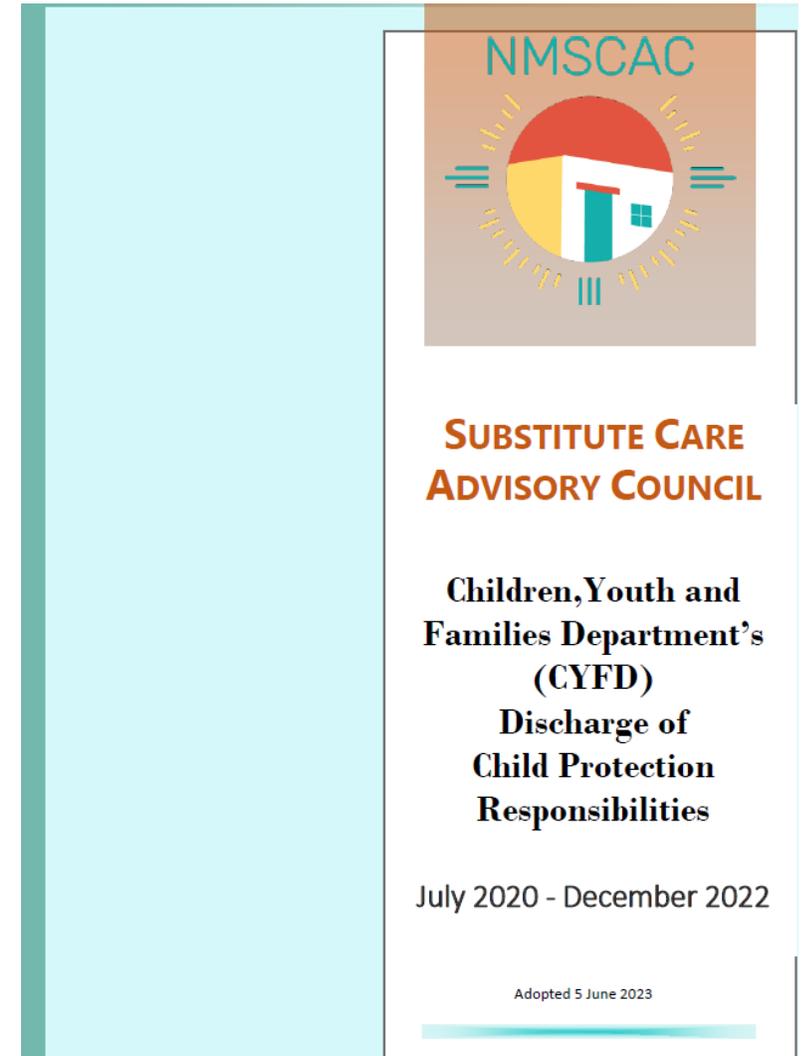
**Discharge of
Child Protection
Responsibilities**

July 2020 - December 2022

Adopted 5 June 2023

Other Recommendations

- Review and revise administrative rules to allow for timely annual reports when a quorum may not be met due to circumstances beyond the control of the Council.
- Obtain an Office of Attorney General opinion regarding the possible conflict of duties of the Superintendent of the Regulation Licensing Department to administratively attached agencies as changed in 2021 NM Stat § 9-16-6(B)(9) with NM Stat § 9-1-7.
- Refer observations noted in adjudicatory orders to the Children’s Court Improvement Commission (presented to CCIC 20 July 2023).
- Refer observations of notices of changes in placement in accordance with NM Stat 32A-4-14 to the Children’s Code Reform Task Force for review and revision (presented to CCIC 20 July 2023; CCRTF in abeyance).
- Collaborate with legislators to subsume the Act in new legislation for an independent child advocate office.





Citizen Substitute Care Review Act

(32A-8 NMSA 1978)

The only legislation in New Mexico to provide independent and objective monitoring of children in the custody of CYFD.

The Act does NOT result in any change to improve practice and service to children, youth and families in the care of CYFD.



Challenges

Limited Purpose

No Direct Funding

Administratively Attached
to RLD

Purpose

Permanent statewide system for independent and objective monitoring of the department (CYFD) by examining the policies, procedures and practices of the department to evaluate its effectiveness in discharging its child protection responsibilities.

Independent

Stand alone office

OR

Attached to an entity outside of Executive Department (NM Stat § 9), Children's Cabinet (NM Stat § 32A-22)

Appropriation

- Transfer all costs, personnel, equipment related to the Citizen Substitute Care Review Act to Office of Child Welfare.
- Direct appropriation.





Challenge

Council Composition

Proposed



Rename from 'substitute care advisory council'.

Council: 9 voting members, 1 non-voting member

- 2 voting members appointed by the majority leaders of the House and Senate (one each);
- 2 voting members appointed by the minority leaders of the House and Senate (one each);
- 4 voting members with demonstrated expertise in child protective services appointed by the Governor;
- 1 voting member, children's court judge appointed by the Supreme Court.
- CYFD Secretary or Deputy Secretary as a non-voting member.



Proposed

- A member of the Council shall act impartially in a nonpartisan manner.
- The chair and vice-chair of the Council must not be a state employee.
- Voting members of the Council are appointed to 3-year renewable terms.
- Appointments of voting members shall be made within ninety days of the effective date of the Act.
- Vacancies must be filled within sixty days of the vacancy.



Challenge

Access to Information
Documents
Staff

PROPOSED

CYFD establish procedures to:

- provide the requested records in a timely manner;
- CYFD staff is available to provide input for case reviews and processing of grievances; and
- CYFD's agents and contractors provide requested record in a timely manner and ensure staff availability to provide input for case reviews and processing of grievances.



Challenge

Response to Reports

Proposed Annual Report Response

CYFD responds in writing within 90 calendar days of the date the annual report is submitted.

Written response includes:

- CYFD's position as to each recommendation, and
- A description of whether or how the department will incorporate each recommendation to make measurable progress in improving the state and local child protection response system.

PROPOSED Case Review/Grievance Report Response

- CYFD responds in writing within 10 business days of receipt of a report after a case review or a review of a grievance its position as to each recommendation.
- CYFD meets regularly with Council staff.

Proposed Legislation Language Available

- Purpose of Act;
- Definitions;
- Council Members, Compensation, Responsibilities;
- Council Staffing;
- Citizen Participation;
- Case Review Rules, Reports;
- Grievance Rules, Reports;
- Access to Records;
- Confidentiality of Information
- Temporary Provision Transfer of Funds
- Appropriation.





Next report expected
by 1 November 2023

Questions?
Comments?
Suggestions?

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