

**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES AND FORMS
PROPOSAL 2025-001**

March 6, 2025

The Children's Court Rules Committee has recommended the adoption of new Rules 10-164.1 and 10-164.2 NMRA and Forms 10-528, 10-529, 10-746, and 10-747 NMRA and the withdrawal of Rule 10-164 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2025, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

[WITHDRAWN]

[10-164. Court appointed special advocates.]

~~A. **Appointment.** A court appointed special advocate ("CASA") may be appointed by a children's court judge pursuant to the provisions of this rule to assist in any children's court proceeding.~~

~~B. **Qualifications.** Any volunteer appointed to serve as a CASA pursuant to this rule shall:~~

- ~~(1) — be of the age of majority;~~
- ~~(2) — have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks;~~
- ~~(3) — have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and~~
- ~~(4) — remain under the supervision of the local CASA director.~~

~~C. **Powers.** The CASA may assist the court:~~

- ~~(1) — in determining the best interests of the child by investigating the facts of the situation when directed by the court and submitting reports to the parties; and~~
- ~~(2) — by monitoring compliance with the treatment plan and submitting reports to the court and the parties subsequent to adjudication.~~

~~D. **Duties.** Any volunteer appointed to serve as a CASA pursuant to this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to:~~

(1) ~~reviewing records other than those records to which access is limited by the court;~~
(2) ~~interviewing appropriate parties;~~
(3) ~~monitoring case progress;~~
(4) ~~preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and~~
(5) ~~conducting business while maintaining confidentiality of information obtained.~~

~~E. **Ex parte communications.** A CASA volunteer shall not engage in any ex parte communications with the judge assigned to any case on which the CASA volunteer is working.~~

~~F. **Reports.** Any reports prepared by the CASA volunteer shall not be filed with or considered by the children's court judge prior to the conclusion of the adjudicatory proceeding. The report shall be served on the parties, but not the court, at least five (5) days prior to the hearing at which it will be considered.~~

~~G. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA.~~

~~[Adopted, effective September 1, 1995; as amended, effective March 1, 2003; Rule 10-121 NMRA, recompiled as Rule 10-164 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009.]~~

[NEW MATERIAL]

10-164.1. Court-appointed special advocates in child welfare cases.

A. **Appointment.** A court-appointed special advocate ("CASA") may be appointed by a children's court judge under the provisions of this rule to assist in any abuse and neglect, Families in Need of Court-Ordered Services, or Fostering Connections proceeding.

B. **Qualifications.** Any volunteer appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age;
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks;
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any volunteer appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child;
- (2) reviewing records other than those records to which access is limited by the court;
- (3) interviewing respondents as permitted under Paragraph D.
- (4) interviewing other persons with information relevant to the child's best interests;
- (5) monitoring the progress of the case;
- (6) monitoring compliance with the case plan;
- (7) monitoring progress in addressing the causes and conditions that brought the child into custody;

- (8) preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and
- (9) maintaining confidentiality of information obtained.

D. Communication with respondent.

(1) **Pre-adjudication.** Prior to the conclusion of the adjudicatory hearing, a CASA shall not interview a respondent unless the respondent and the respondent's counsel have consented to the interview.

(2) **Post-adjudication.** Once a child has been adjudicated abused or neglected as to a respondent, the CASA may interview that respondent without first obtaining consent of the respondent's counsel.

E. Ex parte communications. A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

F. Reports. Any report prepared by the CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.

(1) **Pre-adjudication reports.** Prior to the conclusion of the adjudicatory hearing, a CASA report shall not include information related to the allegations in the abuse and neglect petition. The CASA report may contain factual information about the child's wellbeing, which includes but is not limited to the following:

(a) the child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs;

(b) the child's recreational and extracurricular-related activities and interests; and

(c) the quality and regularity of family time between the child, the child's siblings, and the respondents.

(2) **Post-adjudication reports.** Once a child has been adjudicated abused or neglected as to a respondent, a CASA report may include any information or recommendations related to the child's best interest and the needs of the family.

G. Time limits. No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary –

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.1 governs the appointment of CASAs in child welfare cases, including any abuse and neglect case, Families in Need of Court-Ordered Services cases, or Fostering Connections case provided that a CASA may only be appointed in a Fostering Connections case with the consent of the eligible adult, *see* NMSA 1978, § 32A-26-5 (2020) (establishing that the eligible adult's participation in the fostering connections program is voluntary). A companion rule, Rule 10-164.2, governs the appointments of CASAs in delinquency and youthful offender cases.

Use Form 10-528 NMRA to appoint a CASA in a child welfare case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10-529 NMRA.

Under the confidentiality provisions of the Abuse and Neglect Act, NMSA 1978, Section 32A-4-33 (2022), a CASA must keep confidential any records or information concerning parties

to abuse and neglect cases to which the CASA is appointed. Rule 10-166 NMRA provides that the court may sanction or hold in contempt any person who “knowingly discloses any material obtained from a [sealed] court record.” These confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-164.2. Court-appointed special advocates in delinquency or youthful offender cases.

A. **Appointment.** A court-appointed special advocate (“CASA”) may be appointed by a children’s court judge under the provisions of this rule to assist in any delinquency or youthful offender proceeding.

B. **Qualifications.** Any volunteer appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age;
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks;
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any volunteer appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child with the consent of both the child and the child’s defense attorney under Paragraph E of this rule;
- (2) reviewing records other than those records to which access has been limited by the court;
- (3) interviewing other persons with information relevant to the child’s best interests;
- (4) monitoring the progress of the case;
- (5) preparing reports and making recommendations to the court regarding the child’s best interests; and
- (6) maintaining confidentiality of information obtained.

E. **Communication with respondent child.** A CASA shall not communicate with or interview a respondent child unless the respondent child and the respondent’s child defense counsel have consented to the interview.

F. **Ex parte communications.** A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

G. **Reports.** No report prepared by a CASA may be served on the parties or the court without a certification of approval by the respondent child’s defense counsel under Subparagraph (G)(1). Any report prepared by a CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.

(1) **Approval by defense counsel.** Any report prepared by a CASA in a delinquency or youthful offender case must include the following:

(a) a certification from the CASA that the report has been provided to the respondent child's defense counsel for approval at least ten (10) days prior to the hearing at which it will be considered; and

(b) a certification from the respondent child's defense counsel that the defense counsel has reviewed the report and approved the disclosure of the report to the parties and the court;

(2) **Pre-adjudication reports.** Prior to the conclusion of the adjudication in the case, a CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. The CASA report may only include factual information about the child's wellbeing, including the following:

(a) the child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs; and

(b) the child's recreational and extracurricular-related activities and interests.

(3) **Post-adjudication reports.** Following adjudication, a CASA report may include any relevant information or recommendations related to the child's best interest.

H. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary -

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.2 governs the appointment of CASAs in delinquency and youthful offender cases. A companion rule, Rule 10-164.1, governs the appointment of CASAs in child welfare cases.

Use Form 10-746 NMRA to appoint a CASA in a delinquency or youthful offender case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10-747 NMRA.

Under the records confidentiality provisions of the Delinquency Act, NMSA 1978, Section 32A-2-32 (2009), a CASA may have access to records pertaining to the child as a person "having legitimate interest in the case or the work of the court." Section 32A-2-32(C)(16). If the court grants records access to a CASA, the CASA must agree "not to otherwise release the records." *Id.* Rule 10-166 provides that the court may sanction or hold in contempt any person who "knowingly discloses any material obtained from a [sealed] court record." These records confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-528. Order appointing court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.
CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____

In the Matter of

_____, a Child,¹ and Concerning
_____, Respondent.²

**ORDER APPOINTING
COURT-APPOINTED SPECIAL ADVOCATE (CASA)**

This matter came before the Honorable _____ on _____ (date) to appoint a court-appointed special advocate ("CASA") for the child in this case. The New Mexico Children, Youth and Families Department ("CYFD") was represented by _____, children's court attorney. _____ (name of child) was represented by _____, (guardian *ad litem*/attorney). Respondent _____ (name of respondent) was represented by attorney _____ (modify as necessary). The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated abused or neglected; and
2. A CASA will aid the court by providing the court with information or recommendations related to the child's best interests and the needs of the family.[]; and
3. This case is subject to the New Mexico Indian Family Protection Act ("IFPA") and the federal Indian Child Welfare Act ("ICWA"). A CASA will aid the court in assessing whether the Department is making active efforts at engaging the tribe, communicating regularly with the tribal ICWA worker, seeking statutorily-preferred placements for the child, and maintaining the child's cultural connections.]³

IT IS THEREFORE ORDERED that _____ (name of CASA volunteer) is appointed as the CASA in the above-captioned case under Rule 10-164.1 NMRA. The CASA is a participant to the case and may review pleadings filed in the above-captioned case. The CASA shall not be named as the child's educational decision maker or the child's parent for purposes of the Federal Education Records Protection Act, unless so appointed by separate order of the court. All parties and counsel shall timely cooperate with the CASA's inquiries as permitted under Rule 10-164.1.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA shall file with the court Form 10-529 NMRA, to certify that the CASA meets the qualifications under Rule 10-164.1, that the CASA has reviewed and will abide by the confidentiality provisions of Section 32A-4-33 NMSA 1978 and Rule 10-166 NMRA, and that the CASA will promptly request to be relieved of this appointment if the CASA falls out of compliance with Rule 10-164.1 or is no longer a CASA volunteer.

IT IS FURTHER ORDERED that five (5) days before any hearing in this case at which a CASA report will be considered, the CASA shall provide the court with a report and shall provide a copy of the report on all parties[, including the tribal ICWA/IFPA worker].³ The court may request additional CASA reports at its discretion. The substance of the reports shall vary,

depending on whether the adjudicatory hearing has concluded at the time the report is provided to the parties.

IT IS FURTHER ORDERED that prior to the conclusion of the adjudicatory hearing, a CASA shall, at regular intervals, discuss the case and its progress with the following individuals and entities, as applicable to the case: CYFD's Permanency Planning Worker, the Children's Court Attorney, the child's guardian *ad litem* or attorney, the foster parent, the child's teachers, the child's medical providers, the child's therapists, the child's counselors, [the tribal ICWA/IFPA worker,]³ and any other community or service providers for the family. Under Rule 10-164.1, prior to adjudication, a CASA is not permitted to interview any respondent to the case unless that respondent's attorney has consented to the interview. Any pre-adjudication report shall provide factual information about the child's wellbeing, including the following:

1. the child's mental, physical, medical, therapeutic, emotion, cultural, and educational needs;
2. the child's recreational and extracurricular-related activities and interests; and
3. the quality and regularity of family time between the child, the child's siblings, and the respondents.[]; and
4. CYFD's efforts at engaging the child's tribe, including how often CYFD is communicating with the tribal ICWA/IFPA representative, whether CYFD is pursuing the ICWA/IFPA placement preferences, and whether CYFD is making active efforts to maintain the child's cultural connections.[]³

IT IS FURTHER ORDERED that once a child has been adjudicated abused and/or neglected as to a respondent, in addition to the individuals listed in the previous paragraph, the CASA shall discuss the case, at regular intervals, with the respondent to whom the child has been adjudicated and that respondent's attorney. Any post-adjudication report shall include the information listed in the previous paragraph, as well as any information or recommendations related to the child's best interest and needs of the family, to include the following:

1. CYFD's efforts at implementing and facilitating any court-ordered case plan for the parties; and
2. the parties' compliance and progress with any court-ordered case plan(s);

IT IS FURTHER ORDERED that when gathering information from individuals who are not a party to the case, the CASA shall diligently and faithfully observe the confidential nature of this case and the family's right to privacy under Section 32A-4-33 NMSA 1978 and Rule 10-166 NMRA. Accordingly, the CASA shall maintain and destroy any case-related documents received in a manner that ensures confidentiality and privacy and is consistent with national CASA standards. The CASA shall not keep any documents once the CASA is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]¹ on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Guardian *ad litem*/Youth Attorney: _____

Respondent Attorney: _____

[Tribal ICWA/IFPA representative: _____ *(the Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.)*]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
2. As appropriate, modify to use the plural "respondents" throughout this form.
3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-529. Acceptance of court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____

In the Matter of

_____, a Child,¹ and Concerning

_____, Respondent.²

ACCEPTANCE OF COURT-APPOINTED SPECIAL ADVOCATE (CASA)

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA because I am at least twenty-one (21) years of age;
2. I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks;
3. I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network;
4. I remain under the supervision of the local CASA director;
5. I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and Section 32A-4-33 NMSA 1978, and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with national CASA standards, and I will not keep any information or documents when I am relieved of my appointment;
6. I have read the *Order Appointing Court-Appointed Special Advocate (CASA)* and understand my specific duties and the court's expectations;
7. I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this family. At regular intervals, I will discuss the case and its progress with the following individuals and entities, as applicable to the case: the Children, Youth and Families Department's Permanency Planning Worker, the Children's Court Attorney, the respondent, the attorney for the respondent, the child's guardian *ad litem* or attorney, the foster parent(s), [the tribal Indian Child Welfare Act (ICWA)/Indian Family Protection Act (IFPA) worker,]³ the child's teachers, the child's medical providers, the child's therapists, the child's counselors, and any other community or service providers for the family;
8. I understand that, prior to adjudication in this case, I shall not interview any respondent to this case unless that respondent's attorney has consented to the interview.
9. I understand that I must prepare and submit reports to the court at least five (5) days before any hearing in this case at which the report will be considered. I will abide the requirements for pre- and post-adjudication reports as described in Rule 10-164.1, and provide a copy of my report on all parties to the case[, including the tribal ICWA/IFPA worker].³
10. I understand that I may attend any hearing set for this case.
11. I understand that I may supplement or correct my written report during a court hearing; and
12. I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.1 or if I am no longer a CASA volunteer.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA for this case.

Respectfully Submitted,

Name of CASA:

Office Address:

Office Phone Number:

Office Email: _____

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]³ on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Child's Guardian *ad litem* or Attorney: _____

Respondent Attorney: _____

[Tribal ICWA/IFPA representative: _____ (the
Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.)]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
2. As appropriate, modify to use the plural "respondents" throughout this form.
3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-746. Order appointing court-appointed special advocate in delinquency and youthful offender cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____

In the Matter of
_____, a Child.

**ORDER APPOINTING
COURT-APPOINTED SPECIAL ADVOCATE (CASA)**

This matter came before the Honorable _____ on _____ (*date*) to appoint a court-appointed special advocate (“CASA”) for the child in this case. The State of New Mexico was represented by _____, children’s court attorney. _____ (*name of child*)) was represented by _____. The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated a delinquent child; and
2. A CASA will aid the court by providing the court with information or recommendations related to the best interest of the child.

IT IS THEREFORE ORDERED that _____ (*name of CASA volunteer*) is appointed as the CASA in the above-captioned case under Rule 10-164.2 NMRA. The CASA may review records pertaining to the child as a person having legitimate interest in the case or the work of the court under Section 32A-2-32 NMSA 1978. All parties and counsel shall timely cooperate with the CASA’s inquiries as permitted under Rule 10-164.2.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA shall file with the court Form 10-747 NMRA, to certify that the CASA meets the qualifications under Rule 10-164.2, that the CASA has reviewed and will abide by the confidentiality provisions of Section 32A-2-32 NMSA 1978 and Rule 10-166 NMRA, and that the CASA will promptly request to be relieved of this appointment if the CASA falls out of compliance with Rule 10-164.2 or is no longer a CASA volunteer.

IT IS FURTHER ORDERED that the CASA shall not communicate with or interview the respondent child unless the respondent child and the respondent child’s defense counsel have consented to the interview.

IT IS FURTHER ORDERED that the CASA shall submit any prepared reports to the respondent child’s defense counsel for approval at least ten (10) days prior to any hearing at which the report will be considered by the court. Under Rule 10-164.2, no CASA report shall be submitted to the court or presented to the parties in this case without a certification from the respondent child’s defense counsel that (1) defense counsel has reviewed the report and (2) defense counsel has approved the disclosure of the report to the parties and the court.

IT IS FURTHER ORDERED that, if approved for disclosure by the respondent child’s defense counsel, the CASA shall submit any reports to the court at least five (5) days before any hearing at which the report will be considered and shall provide a copy of the report to all parties to the case. The court may request additional CASA reports at its discretion provided that all CASA reports must be approved and certified by the respondent child’s defense counsel. Prior to the conclusion of the adjudication, the CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. Any pre-adjudication CASA report may only include factual information about the child’s wellbeing, including the following:

1. the child’s mental, physical, medical, therapeutic, emotion, cultural, and educational needs; and
2. the child’s recreational and extracurricular-related activities and interests.

IT IS FURTHER ORDERED that following the conclusion of the adjudication in this case, the CASA report may include any relevant information or recommendations related to the child’s best interest.

IT IS FURTHER ORDERED that when gathering information from individuals who are not a party to the case, the CASA shall diligently and faithfully observe the confidentiality provisions of Section 32A-2-32 NMSA 1978 and Rule 10-166 NMRA. Accordingly, the CASA shall maintain and destroy any confidential documents or records received in a manner that ensures is consistent with state law and national CASA standards. The CASA shall not keep any documents once the CASA is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-747. Acceptance of court-appointed special advocate in delinquency and youthful offender cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____

In the Matter of

_____, a Child.

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)**

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA because I am at least twenty-one (21) years of age;
2. I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks;
3. I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network;
4. I remain under the supervision of the local CASA director;
5. I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and Section 32A-2-32 NMSA 1978, and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with national CASA standards, and I will not keep any information or documents when I am relieved of my appointment;
6. I have read the *Order Appointing Court-Appointed Special Advocate (CASA)* and understand my specific duties and the court's expectations;
7. I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this child.
8. I understand that I shall not communicate with or interview the respondent child unless the respondent child and the respondent child's defense counsel have consented to the interview.
9. I understand that I shall prepare and submit reports to defense counsel for approval at least ten (10) days prior to any hearing at which the report may be considered. I will not submit my report to the court or any other parties to the case without a certification of approval from defense counsel under Rule 10-164.2.
10. I understand that I shall prepare and submit approved reports to the court at least five (5) days before any hearing in this case at which the report may be considered. I will abide the requirements for pre- and post-adjudication reports as described in Rule 10-164.2, and provide a copy of any approved reports to all parties to the case.
10. I understand that I may attend any hearing set for this case.
11. I understand that I may supplement or correct my written report during a court hearing; and
12. I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.2 or if I am no longer a CASA volunteer.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA for this case.

Respectfully Submitted,

Name of CASA:

Office Address:

Office Phone Number:

Office Email:

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

1 message

Supreme Court <noreply@nmcourts.gov>

Mon, Mar 10, 2025 at 9:47 PM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name	Donna
	Gomez
Phone Number	5059030305
Email	dgomez@nmkidsmatter.org
Proposal Number	2025-001
Comment	What CASA Appointment Order form is proposed for 10.641.1 for CASA appointment for a youth in the Fostering Connections program?

Name Donna Gomez

Phone Number 5059030305

Email dgomez@nmkidsmatter.org

Proposal Number 2025-001

Comment

What CASA Appointment Order form is proposed for 10.641.1 for CASA appointment for a youth in the Fostering Connections program?

**New Mexico
Courts****Alyssa Segura** <supams@nmcourts.gov>**[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court**

1 message

Supreme Court <noreply@nmcourts.gov>

Wed, Mar 26, 2025 at 7:57 AM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name	Annie Rasquin
Phone Number	505-603-0223
Email	annie@casafirst.org
Proposal Number	Proposal 2025-001 - CASA Duties [New Rules 10-164.1 and 10-164.2 NMRA and Forms 10-528, 10-529, 10-746, and 10-747 NMRA; Withdrawn Rule 10-164 NMRA]
Comment	<p>Most of what is proposed in changes and addendums is already more appropriately and adequately addressed other areas (standards, laws, contracts). Much outlined is inappropriate in this context, contradictory, beyond the CASA role, or in fact a deterioration of more streamlined, better worded and effective current practices. Segments of what is proposed is in fact CYFD's role, not CASAs who are purely community volunteers who are rather a voice to the court for the child's best interest.</p> <p>Many of the suggested items are already outlined and required by National and State CASA standards, CASA AOC contract requirements, and confidentiality laws. Repeating these in multiple places doesn't streamline or improve current practices. These details are better defined and better monitored as standards, create nimbleness versus requiring law changes and not appropriate in this domain. The proposed language and forms not standard for other court roles.</p> <p>All the regional CASA programs are compliant with the NM and National CASA standards and the AOC contract requirements, and the specifics of how CASA work is administered is best left to each program. This is why we have a state organization to oversee that each program is fulfilling their role as they see fit, within the context of state standards.</p> <p>Current in use court appointments, and court reports are much more streamlined and already effective at many regional programs, and meeting the needs of all parties. These changes are unneeded, create complexity boilerplate and more bureaucracy without improvement (see proposed adding forms 10-529 and 10-528.) Changing current systems for more complex ones, without benefit makes no sense.</p> <p>Secondly, increasing scope and responsibilities of CASA programs without participation, or clear input from the programs themselves, nor funding for proposed expansion and new roles, especially concerning as court not yet adequately funding the court appointed special advocates program. Current funding should be addressed prior to any considerations of expanding role.</p> <p>Further details of problematic language and concerns of proposed changes are outlined below.</p>

p. 4 for delinquency cases, G. certification of approval by defense counsel is inappropriate and conflict

p. 6 & p7. We prefer our in use court order (see attached) and see no advantage to changing to the more problematic one, and replacing from one our own judges are happy with. Most of this shouldn't be in order anyhow and best outlined in other areas (see pg 6 it is further ordered...). No advantage to adding superfluous information.

Though we believe this court order should not be mandated and other better and streamlined regional programs orders currently in use should be considered first, some details of problematic areas are as follows:

All shalls should be replaced with may, as some requirements not feasible or appropriate in role including some cases and situations (ex runaways).

Most concerning and inappropriate: pg. 7 top "shall discuss case with" as CASAs abide by strict confidentiality and gather information, and may not indeed discuss with all parties at all times. It is beyond CASAs role to determine who information is to be shared with and to share case information (which they may not have access to), which is squarely CYFDs role.

Remove requirement of 10-529. In pg 6 both first and second "It is therefore ordered" are not appropriate in appointment. Pages 8 and 9. remove this form full stop, as standards and role best addressed in other areas. Most poignantly the most important aspect of the court appointment is not included in this otherwise over wordy suggested alternative:

"This Order authorizes the above-named CASA to collect and copy information pertaining to the assigned case. The court authority extends to and includes reports and confidential information from any legal, medical, educational, and judicial agencies pursuant to the New Mexico Children's Code, NMSA 1978, 32A-2-32 (2009), 32A-3B-22 (2005), 32A-4-33 (2009), 32A-5-8 (2009), and 32A-6A-24 (2008). "

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Name Annie Rasquin

Phone Number 505-603-0223

Email annie@casafirst.org

Proposal Number Proposal 2025-001 - CASA Duties [New Rules 10-164.1 and 10-164.2 NMRA and Forms 10-528, 10-529, 10-746, and 10-747 NMRA; Withdrawn Rule 10-164 NMRA]

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Further details of problematic language and concerns of proposed changes are outlined below.

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Court-Appointment-RIO-ARRIBA.doc

32K

**FIRST JUDICIAL DISTRICT COURT
COUNTY OF RIO ARriba
STATE OF NEW MEXICO**

**CAUSE NUMBER: D-117-JQ-
STATE OF NEW MEXICO, ex rel. CHILDREN YOUTH AND FAMILIES DEPARTMENT**

In the Matter of:, Children and

**Concerning:
Respondent(s).**

ORDER APPOINTING COURT APPOINTED SPECIAL ADVOCATE

**THIS MATTER coming before the Court and the Court being fully advised in the
premises FINDS:**

Given the number of cases pending before the Court, it is necessary from time to time that a person shall be named a **COURT APPOINTED SPECIAL ADVOCATE** to investigate the facts of the case, report to the Court regarding the case and to perform other tasks delegable to a **CASA** under the provisions of SCRA 10-164.

A **CASA** should be appointed to assist the Court in the above referenced matter.

IT IS THEREFORE ORDERED that:

Pursuant to SCRA 10-164, , is appointed officer of this Court as a **COURT APPOINTED SPECIAL ADVOCATE**.

This Order authorizes the above-named **CASA** to collect and copy information pertaining to the assigned case. The court authority extends to and includes reports and confidential information from any legal, medical, educational, and judicial agencies pursuant to the New Mexico Children's Code, NMSA 1978, 32A-2-32 (2009), 32A-3B-22 (2005), 32A-4-33 (2009), 32A-5-8 (2009), and 32A-6A-24 (2008).

Judge Mary L. Marlowe Sommer

DATE



**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Comments on Proposal 2025-001 – CASA Duties

Spencer Wright <spencerw@gmail.com>

Tue, Apr 1, 2025 at 12:13 PM

Reply-To: spencerw@gmail.com

To: rules.supremecourt@nmcourts.gov

Thank you for the ability to comment on the proposed rules. My comments are attached.

NB - Your webform is unable to receive electronic submissions. It asks for authentication using something called a "captcha" which is not available.

Sincerely,

--

Spencer Wright

802-377-9700

spencerw@gmail.com

2 attachments



Proposal-2025-001-TSW Blackline.docx

59K



2025-001 TSWright Comments.pdf

2412K

1 April 2025
Santa Fe, New Mexico

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Regarding: Possible Changes to the Children's Court Rules and Forms
Proposal 2025-001 -- Court-Appointed Special Advocates (Rule 10-164 NMRA)

Dear Ms. Garcia,

I would like to thank you and the Supreme Court of New Mexico for the chance to comment on proposed rule changes.

I am submitting comments to the proposed rule in my personal capacity. I have some relevant experience as I have served on the boards of the New Mexico CASA Association ("NM CASA") as well as the CASA First Judicial District ("CASA First") here in Santa Fe. I have also been through CASA training here in the First Judicial District. I have not served as a CASA advocate.

Summary

The proposed rules replace a general rule with specific requirements based on the types of Children's Court Cases in which a court-appointed special advocate ("CASA advocate") is used.

The specificity of the proposed rules places expectations on the entire statewide CASA network and supersede the requirements of Rule 10-164 NMRA. The proposed rules further define the role of the CASA advocate in provision of the Children's Code (NMSA 1978, Section 32A) to be based on statewide standards rather than practices developed between a particular judge within a judicial district and the local CASA organization.

The proposed rule broadens the role of CASA advocates in several key areas:

- **Timing of Appointment** – The proposed rules allow for use of a CASA advocate in the pre-adjudication period where formerly CASAs were named by the court after the child was adjudicated as a victim of abuse/neglect, or a delinquent offender, or a youthful offender.
- **Specifies and Broadens the Role of a CASA Advocate** – The proposed rules articulate and specify roles for CASA advocates to be a part of a) Families in Need of Court-Ordered Services proceedings (NMSA 1978, Section 32A-3B), b) Fostering Connections proceedings (NMSA 1978, Section 32A-26), and c) Delinquency Act proceedings (NMSA 1978, Section 32A-2) including cases involving a "delinquent offender" or "youthful offender" as defined by the Act. Each of these proceedings may require new standards for the CASA advocates based on the types of cases to which these advocates are assigned.

- **Standardizes Reporting in Abuse and Neglect as well as Delinquency Act cases** – The proposed rules articulate specifically what information a Judge may receive from the CASA advocate in the pre-adjudication and post-adjudication phases of a case. The proposed rules also limit how/what a CASA advocate may report on, based on the type of case being handle by the court.
- **Adds Pre-Approval process for CASA Advocate Reporting in Delinquency Act Cases** – In cases involving a “delinquent offender” or “youthful offender” (as defined by the Delinquency Act), the proposed rules require that a CASA advocate receive specific approval from the respondent child’s defense counsel before any reports can be released to the judiciary or any party to the lawsuit. The respondent child’s attorney must certify that a) they have reviewed the proposed report, and b) that counsel has specifically approved disclosure of the report to the parties and the court.

Related Rules

The proposed rules are potentially related to changes proposed in Rule 10 -172 NMRA and Forms 10-615 NMRA and 10-616 NMRA and amendments to Rule 10-101 NMRA (Proposed Rule Changes 2025-002) which are also currently in a comment period.

The list of potential parties to the case included in proposed rule 2025-002 should conform to the proposed rule 2025-001.

Potential Issues with the Proposed Rules

- **Confusion Regarding Terms used in the Delinquency Act** – The proposed rules refer to delinquency proceedings as well as youthful offender proceedings. The term “delinquency” is not defined within the Delinquency Act NMSA 1978, Section 32A-2. The Delinquency Act defines three types of “delinquent child[ren]” as “delinquent offender”, “youthful offender”, and “serious youthful offender” NMSA 1978, Section 32A-2-3 (2024). Further, the Delinquency Act provides that “serious youthful offender[s]” are not categorized as a “delinquent child” for purposes of the Act NMSA 1978, Section 32A-2-3.H (2024). The proposed rule mixes the terms “delinquency” and “youthful offender” which are inconsistent with the definitions in the Delinquency Act.
Recommendation – That the proposed rules conform with the definitions included in the Delinquency Act. Specifically, sections 0-164.2, 10-746, 10-747 of the proposed rules. The Delinquency Act uses the terms “delinquent offender” and “youthful offender” as subsets of the term “delinquent child”. The proposed rules should either refer to the Delinquency Act itself or should use the broader term “delinquent child”.
- **Confusion regarding CASA Advocate Qualifications** – The proposed rules include the defined term “CASA” (Rule 10-164.A NMRA, Proposed Rule 10-164.1.A, Proposed Rule 10-164.2.A, Proposed Order 10-528, Proposed Acceptance 10-529, Proposed Order 10-746, Proposed Acceptance 10-747) and in certain sections (Rule 10-164.B NMRA, Proposed Rule 10-164.1.B, Proposed Rule 10-164.2.B) refer to the CASA as having “volunteer” qualifications. This implies that CASA advocates are volunteers, or unpaid individuals. In several cases, paid staff of local CASA organizations - rather than volunteers - have been used as CASA advocates in Delinquency Act cases. Certain Children’s Court judges have

interpreted the current rule as requiring certain restrictions on *volunteers* who serve as CASA advocates; while *paid staff* acting as a CASA advocate are not subject to any restrictions under the existing rule. The proposed rules continue to perpetuate this confusion.

Recommendation – That the proposed rules either remove the word “volunteer” or further define the difference between paid workers and volunteer staff serving as CASA advocates.

- **The Proposed Court’s Orders Give No Authority to the CASA Advocate to Access Specific Records** – The proposed orders of appointment for CASA advocate in cases of abuse and neglect (Proposed Order 10-528) give no specific authorization to review any documents *other than documents which have been filed as pleadings* in the related case. The proposed order does give the CASA advocate the authorization of the Court to “discuss” the case with other individuals but does not explicitly give the CASA advocate the ability to review any materials related to the case, *except for material which has been entered in the court’s docket*. This limitation **does not allow** the CASA advocate the authorization of the court to review all of the case records, as further described in NM Stat § 32A-4-33 (2024) for cases of abuse and neglect. That section of the Children’s Code references what information the CASA advocate is able to review, but the proposed Order is much more limited than the existing statute.

The proposed orders of appointment for CASA advocate in Delinquency Act cases (Proposed Order 10-746) **does specifically allow** for the review of records pertaining to the child, as further described in NM Stat § 32A-2-32 (2024).

In practice, CASA advocates will typically present the judge’s appointment order to external entities to authorize their access to information.

As currently drafted, the proposed order naming a CASA advocate in cases of abuse and neglect does not include a specific authorization from the court to access *any* records or other background material relevant to the child’s current situation.

Recommendation – That the proposed order appointing a CASA advocate in cases of abuse and neglect (Proposed Order 10-528) be modified to add specific language authorizing the CASA advocate the ability to access records relevant to the child and the case consistent with NMSA 1978, § 32A-4-33 (2022).

Further that the proposed order appointing a CASA advocate in Delinquency Act cases (Proposed Order 10-746) be modified to add specific language authorizing the CASA advocate the ability to access records relevant to the child and the case consistent with NMSA 1978, § 32A-2-32 (2009).

- **Creates Legal Risks for Report Sources and CASA Advocates** – The proposed rules require the inclusion of a list of sources that were consulted in the preparation of any reporting to the judiciary and related parties. Rules of Evidence (Rule 10-141 NMRA) apply.

While a judge may, in the naming of a CASA advocate to any case, protect that particular CASA advocate from being called as a witness in that case, the disclosure of all report sources in a CASA report places each of those sources in the position of being potentially called as a witness in the judicial proceedings.

Specifically in Delinquency Act cases, there is a high likelihood of respondent child’s counsel subpoenaing the testimony of these sources in the development of their defense case as the

CASA advocates have prepared a blueprint of sources regarding the child.

The proposed rules do not protect the CASA advocates or any of their report sources from becoming witnesses or otherwise involved in the case. This may introduce a reluctance for parties to either a) not be completely honest with the CASA advocate or b) not interact at all with the CASA advocate for fear of becoming personally involved in the court proceedings.

Recommendation – Strike the required disclosure of all source individuals from the reporting requirements. Alternatively, provide some mechanism to ensure that these sources and or the CASA advocate are not drawn into the court proceedings.

- **Absence of Required Certificates from the Proposed Rule and Timing Issues with regards to Court Submittals by the CASA advocate** – In the case of Delinquency Act offender cases, the CASA advocate is required to make a certification to the Court that they have provided a copy of the CASA report to the respondent child’s counsel at least 10 days before any court hearing. Prior to the release of the CASA report to the court and related parties as contemplated in the proposed Rule, the respondent child’s defense counsel is required to review and approve the CASA report. The proposed rule requires the respondent child’s attorney to certify that they have a) reviewed the report; and b) either approve/reject the report’s release to the court and related parties.

After this approval, the CASA advocate is then required by the proposed rule to circulate the report no later than 5 days before the scheduled hearing. There is no requirement in the proposed rule that the respondent child’s defense counsel *actually review or approve* the CASA advocate’s report – it is left to the respondent child’s counsel to determine whether or not the court even sees the CASA report on the child.

The proposed Rule does not contemplate exactly how the defense counsel should respond to the CASA advocate in order for the CASA advocate to proceed with the release of the report, nor do the proposed rules provide for any potential timing issues that could cause the report to be delayed in its submission to the courts and therefore inadmissible.

Recommendation – That the rule includes a form of the required Certificate for the CASA advocate as well as the required Certificate for the respondent child’s defense counsel to be used in the approval and release process of the CASA advocate report to the court and related parties. Further, that the proposed rule establishes a time-restriction on the respondent child’s defense counsel to certify their review and approval/rejection of the release of the CASA report so that the CASA advocate is also able to meet the court’s imposed deadline of five (5) days before any scheduled hearing.

Other Issues

- **Assumes CASA advocates to be available for every Children’s Court Case** - The proposed rules imply that there is an unending source of trained CASA advocates for every case. While an aspirational goal for the statewide CASA network is to have a CASA advocate available for every child, in most judicial districts this is not the case. Certain judicial districts do not even have a local CASA organization and there are no funds available to even create a CASA organization in those districts. In other districts, the number of available CASA advocates is far less than the number of children who need advocacy.

Recommendation – That additional funding be made available to the statewide CASA

Proposed Rule 2025-001
Comments of Spencer Wright
1 April 2025

network so that each judicial district in the state has access to trained CASA advocates through the creation and/or maintenance of a local CASA program.

- **Creates New Unfunded Requirements on local CASA entities.** The Administrative Office of the Courts, while supportive of the statewide CASA network, provide approximately 20% of funding for the local CASA entities in the various judicial districts that have a CASA program. In addition, *funding levels for these local programs have remained unchanged for over 10 years*. The Legislature did not increase recurring funding for the CASA network in the FY26 budget. Each local CASA entity, therefore, must annually fundraise for approximately 80% of their annual costs from the public.

The proposed rules call for development of additional training materials and the development of new statewide standards for use in Delinquency Act cases.

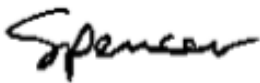
These standards and materials must be developed and the information taught to CASA advocates through the statewide network. No funds have been allocated by the Judiciary for the development of these materials. Therefore, local CASA entities and the statewide CASA organization must fundraise additional amounts to cover the costs of developing this new training material required by the courts.

Recommendation – That the Administrative Office of the Courts increase funding to support the statewide CASA network specifically in the development of this training materials to assist the courts in these cases.

Attached is a blackline proposal including some of the above recommendations as well as some typographical issues.

Again, I wish to thank the court for allowing me the ability to make comments on the proposed court rules. If you have any questions about my recommendations or if I can provide any additional information, please don't hesitate to contact me.

Sincerely,



Spencer Wright
811 Waldo Street
Santa Fe, New Mexico 87505
spencerw@gmail.com

Proposed Rule 2025-001
Blacklined Comments
1 April 2025

Spencer Wright
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Santa Fe, New Mexico 87505
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**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES AND
FORMS PROPOSAL 2025-001**

[WITHDRAWN]

[10-164. Court appointed special advocates.

~~A. **Appointment.** A court appointed special advocate ("CASA") may be appointed by a children's court judge pursuant to the provisions of this rule to assist in any children's court proceeding.~~

~~B. **Qualifications.** Any volunteer appointed to serve as a CASA pursuant to this rule shall: (1) be of the age of majority;~~
~~(2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; (3) have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and~~
~~(4) remain under the supervision of the local CASA director.~~

~~C. **Powers.** The CASA may assist the court:~~
~~(1) in determining the best interests of the child by investigating the facts of the situation when directed by the court and submitting reports to the parties; and (2) by monitoring compliance with the treatment plan and submitting reports to the court and the parties subsequent to adjudication.~~

~~D. **Duties.** Any volunteer appointed to serve as a CASA pursuant to this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to:~~
~~(1) reviewing records other than those records to which access is limited by the court;~~
~~(2) interviewing appropriate parties;~~
~~(3) monitoring case progress;~~
~~(4) preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and~~
~~(5) conducting business while maintaining confidentiality of information obtained.~~

~~E. **Ex parte communications.** A CASA volunteer shall not engage in any ex parte communications with the judge assigned to any case on which the CASA volunteer is working.~~
~~F. **Reports.** Any reports prepared by the CASA volunteer shall not be filed with or considered by the children's court judge prior to the conclusion of the adjudicatory proceeding. The report shall~~

be served on the parties, but not the court, at least five (5) days prior to the hearing at which it will be considered.

~~G. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA.~~

~~[Adopted, effective September 1, 1995; as amended, effective March 1, 2003; Rule 10-121 NMRA, recompiled as Rule 10-164 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009.]]~~

[NEW MATERIAL]

10-164.1. Court-appointed special advocates in child welfare cases.

A. **Appointment.** A court-appointed special advocate (“CASA”) may be appointed by a children’s court judge under the provisions of this rule to assist in any abuse and/or neglect, Families in Need of Court-Ordered Services, or Fostering Connections proceeding.

B. **Qualifications.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age; and
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child;
- (2) reviewing records other than those records to which access is limited by the court;
- (3) interviewing respondents as permitted under Paragraph D.
- (4) interviewing other persons with information relevant to the child’s best interests;
- (5) monitoring the progress of the case;
- (6) monitoring compliance with the case plan;
- (7) monitoring progress in addressing the causes and conditions that brought the child into custody;
- (8) preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and
- (9) maintaining confidentiality of information obtained.

D. Communication with respondent.

(1) **Pre-adjudication.** Prior to the conclusion of the adjudicatory hearing, a CASA shall not interview a respondent unless the respondent and the respondent’s counsel have consented to the interview.

(2) **Post-adjudication.** Once a child has been adjudicated abused or neglected as to a respondent, the CASA may interview that respondent without first obtaining consent of the respondent's counsel.

E. **Ex parte communications.** A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

F. **Reports.** Any report prepared by the CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. ~~Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.~~

(1) **Pre-adjudication reports.** Prior to the conclusion of the adjudicatory hearing, a CASA report shall not include information related to the allegations in the abuse and neglect petition. The CASA report may contain factual information about the child's wellbeing, which includes but is not limited to the following:

- (a) the child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs;
 - (b) the child's recreational and extracurricular-related activities and interests;
- and
- (c) the quality and regularity of family time between the child, the child's siblings, and the respondents.

(2) **Post-adjudication reports.** Once a child has been adjudicated abused or neglected as to a respondent, a CASA report may include any information or recommendations related to the child's best interest and the needs of the family. The CASA report may also include any information or recommendations related to compliance with any treatment plan put forth by the Court or CYFD.

G. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA advocate.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary –

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.1 governs the appointment of CASAs in child welfare cases, including any abuse and neglect case, Families in Need of Court Ordered Services cases, or Fostering Connections case provided that a CASA may only be appointed in a Fostering Connections case with the consent of the eligible adult, *see* NMSA 1978, Section§ 32A-26-5 (2020)

(establishing that the eligible adult’s participation in the fostering connections program is voluntary). A companion rule, Rule 10-164.2, governs the appointments of CASAs in ~~delinquency and youthful offender~~Delinquency Act cases as defined in NMSA 1978 Section 32A-2 (the Delinquency Act).

Use Form 10-528 NMRA to appoint a CASA in a child welfare case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10-529 NMRA.

Under the confidentiality provisions of the Abuse and Neglect Act, NMSA 1978, Section 32A-4-33 (20212), a CASA must keep confidential any records or information concerning parties to abuse and neglect cases to which the CASA is appointed. Rule 10-166 NMRA provides that the court may sanction or hold in contempt any person who “knowingly discloses any material obtained from a [sealed] court record.” These confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-164.2. Court-appointed special advocates in ~~delinquency or youthful offender~~Delinquency Act cases.

A. **Appointment.** A court-appointed special advocate (“CASA”) may be appointed by a children’s court judge under the provisions of this rule to assist in any ~~delinquency or youthful offender~~Delinquency Act (NMSA 1978, Section 32A-2) proceeding.

B. **Qualifications.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age; and
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child with the consent of both the child and the child’s defense attorney under Paragraph ~~E-D~~ of this rule;
- (2) reviewing records other than those records to which access has been limited by the court;
- (3) interviewing other persons with information relevant to the child’s best interests;
- (4) monitoring the progress of the case;
- (5) preparing reports and making recommendations to the court regarding the child’s best interests; and
- (6) maintaining confidentiality of information obtained.

D. ~~E-Communication with respondent child.~~ A CASA shall not communicate with or interview a respondent child unless the respondent child and the respondent’s child defense counsel have consented to the interview.

E. ~~F-Ex parte communications.~~ A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

F. ~~G-Reports.~~ No report prepared by a CASA may be served on the parties or the court

without a certification of approval by the respondent child's defense counsel under Subparagraph (E-F)(1). Any report prepared by a CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. ~~Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.~~

(1) **Approval by defense counsel.** Any report prepared by a CASA in a ~~delinquency or youthful offender~~Delinquency Act case must include the following:

(a) a certification from the CASA that the report has been provided to the respondent child's defense counsel for approval at least ten (10) days prior to the hearing at which it will be considered; and

(b) a certification from the respondent child's defense counsel that the defense counsel has reviewed the report and approved the disclosure of the report to the parties and the court, such certification will be provided in a timely manner;

(2) **Pre-adjudication reports.** Prior to the conclusion of the adjudication in the case, a CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. The CASA report may only include factual information about the respondent child's wellbeing, including the following:

(a) the respondent child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs; and

(b) the respondent child's recreational and extracurricular-related activities and interests.

(3) **Post-adjudication reports.** Following adjudication, a CASA report may include any relevant information or recommendations related to the respondent child's best interest.

G. ~~H.~~ **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA advocate.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary -

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.2 governs the appointment of CASAs in ~~delinquency and youthful offender~~Delinquency Act cases. A companion rule, Rule 10-164.1, governs the appointment of CASAs in child welfare cases.

Use Form 10-746 NMRA to appoint a CASA in a ~~delinquency or youthful offender~~Delinquency

Act case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10- 747 NMRA.

Under the records confidentiality provisions of the Delinquency Act, NMSA 1978, Section 32A-2-32 (2009), a CASA may have access to records pertaining to the child as a person “having legitimate interest in the case or the work of the court.” NMSA 1978, Section 32A-2-32(C)(16) (2009). If the court grants records access to a CASA, the CASA must agree “not to otherwise release the records.” *Id.*

Rule 10-166 provides that the court may sanction or hold in contempt any person who “knowingly discloses any material obtained from a [sealed] court record.” These records confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-528. Order appointing court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN’S COURT

STATE OF NEW MEXICO ex rel.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____ In the Matter of

_____, a Child,¹ and Concerning

_____, Respondent.²

ORDER APPOINTING

COURT-APPOINTED SPECIAL ADVOCATE (CASA)

IN ABUSE/NEGLECT PROCEEDINGS

This matter came before the Honorable _____ on _____ (*date*) to appoint a court-appointed special advocate (“CASA advocate”) for the child in this case. The New Mexico Children, Youth and Families Department (“CYFD”) was represented by _____, children’s court attorney. _____ (*name of child*) was represented by _____, (*guardian ad litem/attorney*). Respondent _____ (*name of respondent*) was represented by attorney _____ (*modify as necessary*). The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated abused or neglected at this time; and

2. A CASA advocate will aid the court by

- a. in determining the best interests of the child and the family by investigating the facts of the situation when directed by the court and submitting reports to the parties; and
- 2.b. _____ by monitoring compliance with CYFD’s efforts at implementing and facilitating any court-ordered case plan for the parties; and the parties’ compliance and progress with any court-ordered case plan(s) or treatment plans and submitting reports to the court and the

parties. providing the court with information or recommendations related to the child's best interests and the needs of the family.]; and

3. This case is subject to the New Mexico Indian Family Protection Act ("IFPA") and the federal Indian Child Welfare Act ("ICWA"). A CASA advocate will aid the court in assessing whether the Department-CYFD is making active efforts at engaging the tribe, communicating regularly with the tribal ICWA worker, seeking statutorily-preferred placements for the child, and maintaining the child's cultural connections.]³

IT IS THEREFORE ORDERED that _____ (*name of CASA ~~volunteer~~advocate*) is appointed as the CASA advocate in the above-captioned case under Rule 10-164.1 NMRA. The CASA advocate is a participant to the case and may review pleadings filed in the above-captioned case. The CASA advocate may also review all records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding as codified in NMSA 1978, Section 32A-4-33 (2022) as well as additional documents relevant to the case. The CASA advocate shall not be named as the child's educational decision maker or the child's parent for purposes of the Federal Education Records Protection Act, unless so appointed by separate order of the court. All parties and counsel shall timely cooperate with the CASA advocate's inquiries as permitted under Rule 10-164.1.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA advocate shall file with the court Form 10-529 NMRA, to certify that the CASA advocate meets the qualifications under Rule 10-164.1, that the CASA advocate has reviewed and will abide by the confidentiality provisions of Section-NMSA 1978, Section 32A-4-33-(2022) NMSA 1978 and Rule 10-166 NMRA, and that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.1 or is no longer a CASA volunteeradvocate.

IT IS FURTHER ORDERED that five (5) days before any hearing in this case at which a CASA report will be considered, the CASA advocate shall provide the court with a report and shall provide a copy of the report on all parties[, including the tribal ICWA/IFPA worker].³ The court may request additional CASA reports at its discretion. The substance of the reports shall vary,

depending on whether the adjudicatory hearing has concluded at the time the report is provided to the parties.

IT IS FURTHER ORDERED that prior to the conclusion of the adjudicatory hearing, a CASA advocate shall may, at regular intervals, discuss the case and its progress with the following individuals and entities, as applicable to the case: CYFD's Permanency Planning Worker, the Children's Court Attorney, the child's guardian *ad litem* or attorney, the foster parent, the child's teachers, the child's medical providers, the child's therapists, the child's counselors, [the tribal ICWA/IFPA worker,]³ and any other community or service providers for the family. Under Rule 10-164.1, prior to adjudication, a CASA advocate is not permitted to interview any respondent to the case unless that respondent's attorney has consented to the interview. Any pre-adjudication report shall provide factual information about the child's wellbeing, including the following:

1. the child's mental, physical, medical, therapeutic, emotionalal, cultural, and educational needs;
2. the child's recreational and extracurricular-related activities and interests; and
3. the quality and regularity of family time between the child, the child's siblings, and the respondents.[]; and
4. CYFD's efforts at engaging the child's tribe, including how often CYFD is communicating with the tribal ICWA/IFPA representative, whether CYFD is pursuing the ICWA/IFPA placement preferences, and whether CYFD is making active efforts to maintain the child's cultural connections.]]³

IT IS FURTHER ORDERED that once a child has been adjudicated abused and/or neglected as to a respondent, in addition to the individuals listed in the previous paragraph, the CASA advocate shall may discuss the case, at regular intervals, with the respondent to whom the child has been adjudicated and that respondent's attorney. Any post-adjudication report shall include the information listed in the previous paragraph, as well as any information or recommendations related to the child's best interest and needs of the family, to include the following:

1. CYFD's efforts at implementing and facilitating any court-ordered case plan for the parties; and
2. the parties' compliance and progress with any court-ordered case plan(s);

IT IS FURTHER ORDERED that when gathering information from individuals who are

not a party to the case, the CASA advocate shall diligently and faithfully observe the confidential nature of this case and the family's right to privacy under Section NMSA 1978, Section 32A-4-33 (2022) NMSA 1978 and Rule 10-166 NMRA. Accordingly, the CASA shall maintain and destroy any case-related documents received in a manner that ensures confidentiality and privacy and is consistent with standards developed by the National CASA/GAL Association for Children~~national CASA standards~~. The CASA advocate shall not keep any documents once the CASA advocate is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]¹ on the date of filing.

District Court Judge~~CASA~~

Parties Entitled to Copies

Children's	Court	Attorney:	_____
Guardian	<i>ad litem</i> /Youth	Attorney:	_____
Respondent		Attorney:	_____

[Tribal ICWA/IFPA representative: _____ (*the Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.*)]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
2. As appropriate, modify to use the plural "respondents" throughout this form.
3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-529. Acceptance of court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____ In the Matter of

_____, a Child,¹ and Concerning

_____, Respondent.²

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN ABUSE/NEGLECT PROCEEDINGS**

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA advocate) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA advocate because

~~1-a.~~ I am at least twenty-one (21) years of age; and

~~2-b.~~ I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and

~~3-c.~~ I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and

~~4.~~ I remain under the supervision of the local CASA director; and

~~5-2.~~ I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and NMSA 1978, Section 32A-4-33-(2022)NMSA 1978, and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with standards developed by the National CASA/GAL Association for Children ~~national CASA standards~~, and I will not keep any information or documents when I am relieved of my appointment;

~~6.3.~~_____ I have read the *Order Appointing Court-Appointed Special Advocate (CASA)* and understand my specific duties and the court's expectations;

~~7.4.~~_____ I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this family. At regular intervals, I will discuss the case and its progress with the following individuals and entities, as applicable to the case: the Children, Youth and Families Department's Permanency Planning Worker, the Children's Court Attorney, the respondent, the attorney for the respondent, the child's guardian *ad litem* or attorney, the foster parent(s), [the tribal Indian Child Welfare Act (ICWA)/Indian Family Protection Act (IFPA) worker,]³ the child's teachers, the child's medical providers, the child's therapists, the child's counselors, and any other community or service providers for the family;

~~8.5.~~_____ I understand that, prior to adjudication in this case, I shall not interview any respondent to this case unless that respondent's attorney has consented to the interview.

~~9.6.~~_____ I understand that I must prepare and submit reports to the court at least five (5) days before any hearing in this case at which the report will be considered. I will abide the requirements for pre- and post-adjudication reports as described in Rule 10-164.1, and provide a copy of my report ~~on to~~ all parties to the case[, including the tribal ICWA/IFPA worker].³

~~10.7.~~_____ I understand that I may attend any hearing set for this case.

~~11.8.~~_____ I understand that I may supplement or correct my written report during a court hearing; and

~~12.9.~~_____ I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.1 or if I am no longer a CASA ~~advocate~~volunteer.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA advocate for this case.

Respectfully Submitted,

Name of CASA advocate: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]³ on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Child's Guardian *ad litem* or Attorney: _____

Respondent Attorney: _____

[Tribal ICWA/IFPA representative: _____ (*the Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.*)]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
 2. As appropriate, modify to use the plural "respondents" throughout this form.
 3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).
- [Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-746. Order appointing court-appointed special advocate in ~~delinquency and youthful offender~~Delinquency Act cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____, a Child.

ORDER APPOINTING

COURT-APPOINTED SPECIAL ADVOCATE (CASA)

IN DELINQUENCY ACT CASES

This matter came before the Honorable _____ on _____ (date) to appoint a court-appointed special advocate ("CASA advocate") for the child in this case. The State of New Mexico was represented by _____, children's court attorney. _____ (name of child)) was represented by _____. The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated a [~~delinquent child~~] [youthful offender] at this time; and
2. A CASA advocate will aid the court by:
 - a. ~~providing the court with information or recommendations related to the best interest of the child. in determining the best interests of the child by investigating the facts of the situation when directed by the court and by submitting reports to the parties~~

IT IS THEREFORE ORDERED that _____ (name of CASA ~~advocate~~volunteer) is appointed as the CASA advocate in the above-captioned case under Rule 10-164.2 NMRA. ~~The CASA may review records pertaining to the child as a person having legitimate interest in the case or the work of the court under Section 32A-2-32 NMSA 1978. The CASA~~ advocate may review all records pertaining to the child, including all related social records, behavioral health screenings, diagnostic evaluations, psychiatric reports, medical reports, social studies reports, records from local detention facilities, client-identifying records from facilities for the care and rehabilitation of delinquent children, pre-parole or supervised release reports and

supervision histories obtained by the juvenile probation office, parole officers and the juvenile public safety advisory board or in possession of the department as codified in NMSA 1978, Section 32A-2-32 (2009). All parties and counsel shall timely cooperate with the CASA advocate's inquiries as permitted under Rule 10-164.2.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA advocate shall file with the court Form 10-747 NMRA, to certify that the CASA advocate meets the qualifications under Rule 10-164.2, that the CASA advocate has reviewed and will abide by the confidentiality provisions of NMSA 1978, Section 32A-2-32 ~~NMSA 1978(2009)~~ and Rule 10-166 NMRA, and that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.2 or is no longer a CASA advocate~~volunteer~~.

IT IS FURTHER ORDERED that the CASA advocate shall not communicate with or interview the respondent child unless the respondent child and the respondent child's defense counsel have consented to the interview.

IT IS FURTHER ORDERED that the CASA advocate shall submit any prepared reports to the respondent child's defense counsel for approval at least ten (10) days prior to any hearing at which the report will be considered by the court. Under Rule 10-164.2, no CASA report shall be submitted to the court or presented to the parties in this case without a certification from the respondent child's defense counsel that (1) defense counsel has reviewed the report and (2) defense counsel has approved the disclosure of the report to the parties and the court, such certification will be provided in a timely manner.

IT IS FURTHER ORDERED that, if approved for disclosure by the respondent child's defense counsel, the CASA advocate shall submit any reports to the court at least five (5) days before any hearing at which the report will be considered and shall provide a copy of the report to all parties to the case. The court may request additional CASA reports at its discretion provided that all CASA reports must be approved and certified by the respondent child's defense counsel. Prior to the conclusion of the adjudication, the CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. Any pre-adjudication CASA report may only include factual information about the respondent child's wellbeing, including the following:

1. the respondent child's mental, physical, medical, therapeutic, emotional, cultural, and

educational needs; and

2. the respondent child's recreational and extracurricular-related activities and interests.

IT IS FURTHER ORDERED that following the conclusion of the adjudication in this case, the CASA report may include any relevant information or recommendations related to the child's best interest.

IT IS FURTHER ORDERED that when gathering information from individuals who are not a party to the case, the CASA advocate shall diligently and faithfully observe the confidentiality provisions of Section NMSA 1978, Section 32A-2-32 NMSA 1978(2009) and Rule 10-166 NMRA. Accordingly, the CASA advocate shall maintain and destroy any confidential documents or records received in a manner that ensures confidentiality and privacy and is consistent with state law and standards developed by the National CASA/GAL Association for Children~~national CASA standards~~. The CASA advocate shall not keep any documents once the CASA advocate is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

District Court Judge~~CASA~~

Parties Entitled to Copies

State of New Mexico _____

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-747. Acceptance of court-appointed special advocate in ~~delinquency and youthful offender~~Delinquency Act cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____, a Child.

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN DELINQUENCY ACT CASES**

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA advocate) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA advocate because:

~~1-a.~~ I am at least twenty-one (21) years of age; and

~~2-b.~~ I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and

~~3-c.~~ I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and

~~4-d.~~ I remain under the supervision of the local CASA director.;

~~5-2.~~ I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and NMSA 1978, Section 32A-2-32 ~~NMSA 1978(2009)~~, and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with standards developed by the National CASA/GAL Association for Children~~national CASA standards~~, and I will not keep any information or documents when I am relieved of my appointment;

~~6-3.~~ I have read the Order Appointing Court-Appointed Special Advocate (CASA) and understand my specific duties and the court's expectations;

~~7.4.~~ I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this respondent child.

~~8.5.~~ I understand that I shall not communicate with or interview the respondent child unless the respondent child and the respondent child's defense counsel have consented to the interview.

6. I understand that I shall prepare and submit reports to defense counsel for approval at least ten (10) days prior to any hearing at which the report may be considered. I will not submit my report to the court or any other parties to the case without a certification of approval from defense counsel under Rule 10-164.2.

~~9.7.~~ I understand that the defense counsel will provide certification of approval of the CASA report to the court and to me under Rule 10.[XXX] NMRA at least five (5) days before any hearing in this case at which the report may be considered. I further understand that I shall not circulate the CASA report to the parties and the court unless I have received specific notice from the defense counsel that the certificate has been filed, and that the CASA report has been approved by defense counsel for distribution. -I understand that defense counsel may either a) not approve of the CASA report, or b) delay the required certificate so that the report will not be submitted within the required time.

8. I understand that only after certification and approval by defense counsel, I shall I prepare and submit the approved reports to the court. The approved reports shall be circulated at least five (5) days before any hearing in this case at which the report may be considered.

~~10.9.~~ I will abide the requirements for pre- and post-adjudication reports as described in Rule ~~10-164.2, and~~10-164.2 and provide a copy of any approved reports to all parties to the case.

~~11.10.~~ ~~10.~~ I understand that I may attend any hearing set for this case.

~~12.11.~~ ~~11.~~ I understand that I may supplement or correct my written report during a court hearing; and

~~13.12.~~ ~~12.~~ I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.2 or if I am no longer a CASA advocate~~volunteer~~.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA advocate for this case.

Respectfully Submitted,

CASA advocate

Date

Name of CASA advocate: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

CASA

Parties Entitled to Copies

State of New Mexico

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-[XXX]. Certificate of Acceptance of Report of Court-Appointed Special Advocate in Delinquency Act Cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____, a Child.

CERTIFICATE OF RECEIPT AND REVIEW OF REPORT
OF COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN DELINQUENCY ACT CASES

COMES NOW _____, respondent child's defense counsel in the above captioned case and states the following.

1. I am the respondent child's defense counsel in the above captioned case.
2. I am aware that the CASA advocate in this case has filed Form 10-747 NMRA with the court, certifying that the CASA advocate meets the qualifications under Rule 10-164.2 NMRA, and further that the CASA advocate has reviewed and will abide by the confidentiality provisions of NMSA 1978, Section 32A-2-32 (2009) and Rule 10-166 NMRA, and further that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.2 or is no longer a CASA advocate.
3. I have reviewed Rule 10-164.2 and understand my obligations under the Rule.
4. I have reviewed Rule 10-164.2 and understand the obligations of the CASA advocate under the Rule, including the timing of the filing obligations for the report.
5. I have received the report of the CASA advocate in this case.
6. The report was submitted to me by the CASA advocate more than 10 days before the next scheduled hearing in this matter as required by Rule 10-164.2.
7. I understand that my timely review of the CASA report is important to the proceedings.

8. I have reviewed the contents of the CASA report.

9. The next scheduled hearing is five (5) days or more prior to the filing of this Certificate

10. I [approve][do not approve] the disclosure of the CASA report to the parties and the court.

Respectfully Submitted,

Signature

Date of Filing

Name of Respondent Child Defense Counsel: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

I certify that a copy of this Certificate of Acceptance has been provided to the CASA advocate and all attorneys for this case on the date of filing.

Respondent Child Defense Attorney

Parties Entitled to Copies:

The State of New Mexico _____

Children's Court Attorney: _____

CASA Advocate: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

**PROPOSED REVISIONS TO THE CHILDREN'S COURT RULES AND
FORMS PROPOSAL 2025-001**

[WITHDRAWN]

[10-164. Court appointed special advocates.]

A. ~~Appointment.~~ ~~A court appointed special advocate ("CASA") may be appointed by a children's court judge pursuant to the provisions of this rule to assist in any children's court proceeding.~~

B. ~~Qualifications.~~ ~~Any volunteer appointed to serve as a CASA pursuant to this rule shall: (1) be of the age of majority;~~
~~(2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; (3) have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and~~
~~(4) remain under the supervision of the local CASA director.~~

C. ~~Powers.~~ ~~The CASA may assist the court:~~
~~(1) in determining the best interests of the child by investigating the facts of the situation when directed by the court and submitting reports to the parties; and (2) by monitoring compliance with the treatment plan and submitting reports to the court and the parties subsequent to adjudication.~~

D. ~~Duties.~~ ~~Any volunteer appointed to serve as a CASA pursuant to this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to:~~
~~(1) reviewing records other than those records to which access is limited by the court;~~
~~(2) interviewing appropriate parties;~~
~~(3) monitoring case progress;~~
~~(4) preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and~~
~~(5) conducting business while maintaining confidentiality of information obtained.~~

E. ~~Ex parte communications.~~ ~~A CASA volunteer shall not engage in any ex parte communications with the judge assigned to any case on which the CASA volunteer is working.~~
F. ~~Reports.~~ ~~Any reports prepared by the CASA volunteer shall not be filed with or considered by the children's court judge prior to the conclusion of the adjudicatory proceeding. The report shall~~

~~be served on the parties, but not the court, at least five (5) days prior to the hearing at which it will be considered.~~

~~G. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA.~~

~~[Adopted, effective September 1, 1995; as amended, effective March 1, 2003; Rule 10-121 NMRA, recompiled as Rule 10-164 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009.]~~

[NEW MATERIAL]

10-164.1. Court-appointed special advocates in child welfare cases.

A. **Appointment.** A court-appointed special advocate (“CASA”) may be appointed by a children’s court judge under the provisions of this rule to assist in any abuse and/or neglect, Families in Need of Court-Ordered Services, or Fostering Connections proceeding.

B. **Qualifications.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age; and
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child;
- (2) reviewing records other than those records to which access is limited by the court;
- (3) interviewing respondents as permitted under Paragraph D.
- (4) interviewing other persons with information relevant to the child’s best interests;
- (5) monitoring the progress of the case;
- (6) monitoring compliance with the case plan;
- (7) monitoring progress in addressing the causes and conditions that brought the child into custody;
- (8) preparing reports based on the investigation conducted by the CASA, including recommendations to the court; and
- (9) maintaining confidentiality of information obtained.

D. Communication with respondent.

(1) **Pre-adjudication.** Prior to the conclusion of the adjudicatory hearing, a CASA shall not interview a respondent unless the respondent and the respondent’s counsel have consented to the interview.

(2) **Post-adjudication.** Once a child has been adjudicated abused or neglected as to a respondent, the CASA may interview that respondent without first obtaining consent of the respondent's counsel.

E. **Ex parte communications.** A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

F. **Reports.** Any report prepared by the CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. ~~Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.~~

(1) **Pre-adjudication reports.** Prior to the conclusion of the adjudicatory hearing, a CASA report shall not include information related to the allegations in the abuse and neglect petition. The CASA report may contain factual information about the child's wellbeing, which includes but is not limited to the following:

(a) the child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs;

(b) the child's recreational and extracurricular-related activities and interests;
and

(c) the quality and regularity of family time between the child, the child's siblings, and the respondents.

(2) **Post-adjudication reports.** Once a child has been adjudicated abused or neglected as to a respondent, a CASA report may include any information or recommendations related to the child's best interest and the needs of the family. The CASA report may also include any information or recommendations related to compliance with any treatment plan put forth by the Court or CYFD.

G. **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA ~~advocate~~.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary –

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.1 governs the appointment of CASAs in child welfare cases, including any abuse and neglect case, Families in Need of Court Ordered Services cases, or Fostering Connections case provided that a CASA may only be appointed in a Fostering Connections case with the consent of the eligible adult, *see* NMSA 1978, Section§ 32A-26-5 (2020)

(establishing that the eligible adult’s participation in the fostering connections program is voluntary). A companion rule, Rule 10-164.2, governs the appointments of CASAs in ~~delinquency and youthful offender~~ Delinquency Act cases as defined in NMSA 1978 Section 32A-2 (the Delinquency Act).

Use Form 10-528 NMRA to appoint a CASA in a child welfare case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10-529 NMRA.

Under the confidentiality provisions of the Abuse and Neglect Act, NMSA 1978, Section 32A-4-33 (202~~1~~2), a CASA must keep confidential any records or information concerning parties to abuse and neglect cases to which the CASA is appointed. Rule 10-166 NMRA provides that the court may sanction or hold in contempt any person who “knowingly discloses any material obtained from a [sealed] court record.” These confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-164.2. Court-appointed special advocates in ~~delinquency or youthful offender~~Delinquency Act cases.

A. **Appointment.** A court-appointed special advocate (“CASA”) may be appointed by a children’s court judge under the provisions of this rule to assist in any ~~delinquency or youthful offender~~Delinquency Act (NMSA 1978, Section 32A-2) proceeding.

B. **Qualifications.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall

- (1) be at least twenty-one (21) years of age; and
- (2) have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and
- (3) have successfully completed initial and regular in-service training according to the guidelines of the statewide CASA network; and
- (4) remain under the supervision of the local CASA director.

C. **Duties.** Any ~~volunteer individual~~ appointed to serve as a CASA under this rule shall be assigned duties consistent with the best interest of the child, which include but are not limited to the following:

- (1) interviewing the child with the consent of both the child and the child’s defense attorney under Paragraph ~~E-D~~ of this rule;
- (2) reviewing records other than those records to which access has been limited by the court;
- (3) interviewing other persons with information relevant to the child’s best interests;
- (4) monitoring the progress of the case;
- (5) preparing reports and making recommendations to the court regarding the child’s best interests; and
- (6) maintaining confidentiality of information obtained.

D. ~~E.-~~**Communication with respondent child.** A CASA shall not communicate with or interview a respondent child unless the respondent child and the respondent’s child defense counsel have consented to the interview.

E. ~~F.-~~**Ex parte communications.** A CASA shall not engage in any ex parte communications with the judge assigned to any case on which the CASA is working.

F. ~~G.-~~**Reports.** No report prepared by a CASA may be served on the parties or the court

without a certification of approval by the respondent child's defense counsel under Subparagraph (E-F)(1). Any report prepared by a CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. ~~Any CASA report shall include a list of persons that the CASA consulted in preparation of the report.~~

(1) **Approval by defense counsel.** Any report prepared by a CASA in a ~~delinquency or youthful offender~~Delinquency Act case must include the following:

(a) a certification from the CASA that the report has been provided to the respondent child's defense counsel for approval at least ten (10) days prior to the hearing at which it will be considered; and

(b) a certification from the respondent child's defense counsel that the defense counsel has reviewed the report and approved the disclosure of the report to the parties and the court, such certification will be provided in a timely manner;

(2) **Pre-adjudication reports.** Prior to the conclusion of the adjudication in the case, a CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. The CASA report may only include factual information about the respondent child's wellbeing, including the following:

(a) the respondent child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs; and

(b) the respondent child's recreational and extracurricular-related activities and interests.

(3) **Post-adjudication reports.** Following adjudication, a CASA report may include any relevant information or recommendations related to the respondent child's best interest.

G. ~~H.~~ **Time limits.** No time limit set forth in these rules shall be tolled or enlarged because of the appointment of a CASA advocate.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Committee commentary -

Prior to 2025, the only rule governing the appointment of CASAs was Rule 10-164 NMRA. Effective December 31, 2025, Rule 10-164 is withdrawn. Rule 10-164.2 governs the appointment of CASAs in ~~delinquency and youthful offender~~Delinquency Act cases. A companion rule, Rule 10-164.1, governs the appointment of CASAs in child welfare cases.

Use Form 10-746 NMRA to appoint a CASA in a ~~delinquency or youthful offender~~Delinquency

Act case. Once appointed, the CASA shall certify and submit acceptance of the appointment using Form 10- 747 NMRA.

Under the records confidentiality provisions of the Delinquency Act, NMSA 1978, Section 32A-2-32 (2009), a CASA may have access to records pertaining to the child as a person “having legitimate interest in the case or the work of the court.” NMSA 1978, Section 32A-2-32(C)(16) (2009). If the court grants records access to a CASA, the CASA must agree “not to otherwise release the records.” *Id.*

Rule 10-166 provides that the court may sanction or hold in contempt any person who “knowingly discloses any material obtained from a [sealed] court record.” These records confidentiality provisions do not preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or neglected child.

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-528. Order appointing court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN’S COURT

STATE OF NEW MEXICO ex rel.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____ In the Matter of

_____, a Child,¹ and Concerning

_____, Respondent.²

ORDER APPOINTING

COURT-APPOINTED SPECIAL ADVOCATE (CASA)

IN ABUSE/NEGLECT PROCEEDINGS

This matter came before the Honorable _____ on _____ (*date*) to appoint a court-appointed special advocate (“CASA advocate”) for the child in this case. The New Mexico Children, Youth and Families Department (“CYFD”) was represented by _____, children’s court attorney. _____ (*name of child*) was represented by _____, (guardian *ad litem*/attorney). Respondent _____ (*name of respondent*) was represented by attorney _____ (*modify as necessary*). The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated abused or neglected at this time; and

2. A CASA advocate will aid the court by

a. in determining the best interests of the child and the family by investigating the facts of the situation when directed by the court and submitting reports to the parties; and

2-b. _____ by monitoring compliance with CYFD’s efforts at implementing and facilitating any court-ordered case plan for the parties; and the parties’ compliance and progress with any court-ordered case plan(s) or treatment plans and submitting reports to the court and the

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~~parties, providing the court with information or recommendations related to the child's best interests and the needs of the family-;~~ and

3. This case is subject to the New Mexico Indian Family Protection Act ("IFPA") and the federal Indian Child Welfare Act ("ICWA"). A CASA advocate will aid the court in assessing whether the ~~Department~~ CYFD is making active efforts at engaging the tribe, communicating regularly with the tribal ICWA worker, seeking statutorily-preferred placements for the child, and maintaining the child's cultural connections.³

IT IS THEREFORE ORDERED that _____ (*name of CASA ~~volunteer~~advocate*) is appointed as the CASA advocate in the above-captioned case under Rule 10-164.1 NMRA. The CASA advocate is a participant to the case and may review pleadings filed in the above-captioned case. The CASA advocate may review all records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding as codified in NMSA 1978, Section 32A-4-33 (2022) as well as additional documents relevant to the case. The CASA advocate shall not be named as the child's educational decision maker or the child's parent for purposes of the Federal Education Records Protection Act, unless so appointed by separate order of the court. All parties and counsel shall timely cooperate with the CASA advocate's inquiries as permitted under Rule 10-164.1.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA advocate shall file with the court Form 10-529 NMRA, to certify that the CASA advocate meets the qualifications under Rule 10-164.1, that the CASA advocate has reviewed and will abide by the confidentiality provisions of ~~Section NMSA 1978, Section~~ 32A-4-33-(2022) NMSA 1978 and Rule 10-166 NMRA, and that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.1 or is no longer a CASA ~~volunteer~~advocate.

IT IS FURTHER ORDERED that five (5) days before any hearing in this case at which a CASA report will be considered, the CASA advocate shall provide the court with a report and shall provide a copy of the report on all parties[, including the tribal ICWA/IFPA worker].³ The court may request additional CASA reports at its discretion. The substance of the reports shall vary,

depending on whether the adjudicatory hearing has concluded at the time the report is provided to the parties.

IT IS FURTHER ORDERED that prior to the conclusion of the adjudicatory hearing, a CASA ~~advocate shall may~~, at regular intervals, discuss the case and its progress with the following individuals and entities, as applicable to the case: CYFD's Permanency Planning Worker, the Children's Court Attorney, the child's guardian *ad litem* or attorney, the foster parent, the child's teachers, the child's medical providers, the child's therapists, the child's counselors, [the tribal ICWA/IFPA worker,]³ and any other community or service providers for the family. Under Rule 10-164.1, prior to adjudication, a CASA ~~advocate~~ is not permitted to interview any respondent to the case unless that respondent's attorney has consented to the interview. Any pre-adjudication report shall provide factual information about the child's wellbeing, including the following:

1. the child's mental, physical, medical, therapeutic, emotional, cultural, and educational needs;
2. the child's recreational and extracurricular-related activities and interests; and
3. the quality and regularity of family time between the child, the child's siblings, and the respondents.[]; and
4. CYFD's efforts at engaging the child's tribe, including how often CYFD is communicating with the tribal ICWA/IFPA representative, whether CYFD is pursuing the ICWA/IFPA placement preferences, and whether CYFD is making active efforts to maintain the child's cultural connections.]]³

IT IS FURTHER ORDERED that once a child has been adjudicated abused and/or neglected as to a respondent, in addition to the individuals listed in the previous paragraph, the CASA ~~advocate shall may~~ discuss the case, at regular intervals, with the respondent to whom the child has been adjudicated and that respondent's attorney. Any post-adjudication report shall include the information listed in the previous paragraph, as well as any information or recommendations related to the child's best interest and needs of the family, to include the following:

1. CYFD's efforts at implementing and facilitating any court-ordered case plan for the parties; and
2. the parties' compliance and progress with any court-ordered case plan(s);

IT IS FURTHER ORDERED that when gathering information from individuals who are

not a party to the case, the CASA advocate shall diligently and faithfully observe the confidential nature of this case and the family's right to privacy under ~~Section NMSA 1978, Section~~ 32A-4-33 ~~(2022) NMSA 1978~~ and Rule 10-166 ~~NMRA~~. Accordingly, the CASA shall maintain and destroy any case-related documents received in a manner that ensures confidentiality and privacy and is consistent with standards developed by the National CASA/GAL Association for Children~~national CASA standards~~. The CASA advocate shall not keep any documents once the CASA advocate is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]¹ on the date of filing.

District Court Judge~~CASA~~

Parties Entitled to Copies

Children's Court Attorney: _____
Guardian *ad litem*/Youth Attorney: _____
Respondent Attorney: _____

[Tribal ICWA/IFPA representative: _____ (the Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.)]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
2. As appropriate, modify to use the plural "respondents" throughout this form.
3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed
on or after _____.]

[NEW MATERIAL]

10-529. Acceptance of court-appointed special advocate in abuse/neglect proceedings

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.

CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____ In the Matter of

_____, a Child,¹ and Concerning

_____, Respondent.²

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN ABUSE/NEGLECT PROCEEDINGS**

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA advocate) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA advocate because

1-a. I am at least twenty-one (21) years of age; and

2-b. I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and

3-c. I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and

4. I remain under the supervision of the local CASA director; and

5-2. I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and NMSA 1978, Section 32A-4-33-(2022)NMSA 1978, and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with standards developed by the National CASA/GAL Association for Children national CASA standards, and I will not keep any information or documents when I am relieved of my appointment;

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6.3. I have read the *Order Appointing Court-Appointed Special Advocate (CASA)* and understand my specific duties and the court's expectations;

7.4. I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this family. At regular intervals, I will discuss the case and its progress with the following individuals and entities, as applicable to the case: the Children, Youth and Families Department's Permanency Planning Worker, the Children's Court Attorney, the respondent, the attorney for the respondent, the child's guardian *ad litem* or attorney, the foster parent(s), [the tribal Indian Child Welfare Act (ICWA)/Indian Family Protection Act (IFPA) worker],³ the child's teachers, the child's medical providers, the child's therapists, the child's counselors, and any other community or service providers for the family;

8.5. I understand that, prior to adjudication in this case, I shall not interview any respondent to this case unless that respondent's attorney has consented to the interview.

9.6. I understand that I must prepare and submit reports to the court at least five (5) days before any hearing in this case at which the report will be considered. I will abide the requirements for pre- and post-adjudication reports as described in Rule 10-164.1, and provide a copy of my report ~~on to~~ all parties to the case[, including the tribal ICWA/IFPA worker].³

10.7. I understand that I may attend any hearing set for this case.

11.8. I understand that I may supplement or correct my written report during a court hearing; and

12.9. I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.1 or if I am no longer a CASA ~~advocate~~ volunteer.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA advocate for this case.

Respectfully Submitted,

Name of CASA advocate: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case [and the tribal ICWA/IFPA representative]³ on the date of filing.

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Child's Guardian *ad litem* or Attorney: _____

Respondent Attorney: _____

[Tribal ICWA/IFPA representative: _____ (*the Department shall file a certificate of service demonstrating that the Indian Tribe(s) and/or Bureau of Indian Affairs Regional Office was/were served a copy of this order within five (5) business days of the order's issuance.*)]³

USE NOTES

1. As appropriate, modify to use the plural "children" throughout this form.
 2. As appropriate, modify to use the plural "respondents" throughout this form.
 3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§1901-1963 (2018), or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42 (2022).
- [Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-746. Order appointing court-appointed special advocate in ~~delinquency and youthful offender~~ Delinquency Act cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____, a Child.

**ORDER APPOINTING
COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN DELINQUENCY ACT CASES**

This matter came before the Honorable _____ on _____ (date) to appoint a court-appointed special advocate ("CASA advocate") for the child in this case. The State of New Mexico was represented by _____, children's court attorney. _____ (name of child) was represented by _____. The court being fully advised on the premises hereby FINDS as follows:

1. The child in this case [has] [has not] been adjudicated a [delinquent child] [youthful offender] at this time; and
2. A CASA advocate will aid the court by:
 - a. ~~providing the court with information or recommendations related to the best interest of the child.~~ in determining the best interests of the child by investigating the facts of the situation when directed by the court and by submitting reports to the parties.

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IT IS THEREFORE ORDERED that _____ (name of CASA advocate ~~volunteer~~) is appointed as the CASA advocate in the above-captioned case under Rule 10-164.2 NMRA. ~~The CASA may review records pertaining to the child as a person having legitimate interest in the case or the work of the court under Section 32A-2-32 NMSA 1978.~~ The CASA advocate may review all records pertaining to the child, including all related social records, behavioral health screenings, diagnostic evaluations, psychiatric reports, medical reports, social studies reports, records from local detention facilities, client-identifying records from facilities for the care and rehabilitation of delinquent children, pre-parole or supervised release reports and

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supervision histories obtained by the juvenile probation office, parole officers and the juvenile public safety advisory board or in possession of the department as codified in NMSA 1978, Section 32A-2-32 (2009). All parties and counsel shall timely cooperate with the CASA advocate's inquiries as permitted under Rule 10-164.2.

IT IS FURTHER ORDERED that within five (5) days of the issuance of this order, the CASA advocate shall file with the court Form 10-747 NMRA, to certify that the CASA advocate meets the qualifications under Rule 10-164.2, that the CASA advocate has reviewed and will abide by the confidentiality provisions of NMSA 1978, Section 32A-2-32 ~~NMSA 1978(2009)~~ and Rule 10-166 NMRA, and that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.2 or is no longer a CASA advocate ~~volunteer~~.

IT IS FURTHER ORDERED that the CASA advocate shall not communicate with or interview the respondent child unless the respondent child and the respondent child's defense counsel have consented to the interview.

IT IS FURTHER ORDERED that the CASA advocate shall submit any prepared reports to the respondent child's defense counsel for approval at least ten (10) days prior to any hearing at which the report will be considered by the court. Under Rule 10-164.2, no CASA report shall be submitted to the court or presented to the parties in this case without a certification from the respondent child's defense counsel that (1) defense counsel has reviewed the report and (2) defense counsel has approved the disclosure of the report to the parties and the court. such certification will be provided in a timely manner.

IT IS FURTHER ORDERED that, if approved for disclosure by the respondent child's defense counsel, the CASA advocate shall submit any reports to the court at least five (5) days before any hearing at which the report will be considered and shall provide a copy of the report to all parties to the case. The court may request additional CASA reports at its discretion provided that all CASA reports must be approved and certified by the respondent child's defense counsel. Prior to the conclusion of the adjudication, the CASA report shall not include factual information related to the allegations in the delinquency petition, preliminary examination, or grand jury indictment. Any pre-adjudication CASA report may only include factual information about the respondent child's wellbeing, including the following:

1. the respondent child's mental, physical, medical, therapeutic, emotional, cultural, and

educational needs; and

2. the respondent child's recreational and extracurricular-related activities and interests.

IT IS FURTHER ORDERED that following the conclusion of the adjudication in this case, the CASA report may include any relevant information or recommendations related to the child's best interest.

IT IS FURTHER ORDERED that when gathering information from individuals who are not a party to the case, the CASA advocate shall diligently and faithfully observe the confidentiality provisions of ~~Section NMSA 1978, Section 32A-2-32 NMSA 1978(2009)~~ and Rule 10-166 ~~NMRA~~. Accordingly, the CASA advocate shall maintain and destroy any confidential documents or records received in a manner that ensures confidentiality and privacy and is consistent with state law and standards developed by the National CASA/GAL Association for Children~~national CASA standards~~. The CASA advocate shall not keep any documents once the CASA advocate is relieved of this appointment by this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

Date

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

District Court Judge~~CASA~~

Parties Entitled to Copies

State of New Mexico _____

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

[NEW MATERIAL]

10-747. Acceptance of court-appointed special advocate in ~~delinquency and youthful offender~~ Delinquency Act cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____, a Child.

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN DELINQUENCY ACT CASES**

COMES NOW _____ and accepts the appointment as the court-appointed special advocate (CASA advocate) for this case. My signature below certifies that I assert and agree as follows:

1. I meet the qualifications to serve as a CASA advocate because:

1.a. I am at least twenty-one (21) years of age; and

2.b. I have successfully passed screening requirements, including a written application, personal interview, reference checks and criminal records checks; and

3.c. I have successfully completed initial and regular in-service training in accordance with the guidelines of the statewide CASA network; and

4.d. I remain under the supervision of the local CASA director. ;

5.2. I have read and I understand the confidentiality requirements of Rule 10-166 NMRA and NMSA 1978, Section 32A-2-32 NMSA 1978(2009), and I agree to abide by these provisions. I will maintain and destroy notes, reports, and documents in a manner that maintains privacy and confidentiality and is consistent with standards developed by the National CASA/GAL Association for Children ~~national CASA standards~~, and I will not keep any information or documents when I am relieved of my appointment;

6.3. I have read the Order Appointing Court-Appointed Special Advocate (CASA) and understand my specific duties and the court's expectations;

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7.4. I understand the court expects forthright and honest assessments from me as the court is relying on my observations to make important decisions about this respondent child.

8.5. I understand that I shall not communicate with or interview the respondent child unless the respondent child and the respondent child's defense counsel have consented to the interview.

6. I understand that I shall prepare and submit reports to defense counsel for approval at least ten (10) days prior to any hearing at which the report may be considered. I will not submit my report to the court or any other parties to the case without a certification of approval from defense counsel under Rule 10-164.2.

9.7. I understand that the defense counsel will provide certification of approval of the CASA report to the court and to me under Rule 10.[XXX] NMRA at least five (5) days before any hearing in this case at which the report may be considered. I further understand that I shall not circulate the CASA report to the parties and the court unless I have received specific notice from the defense counsel that the certificate has been filed, and that the CASA report has been approved by defense counsel for distribution. I understand that defense counsel may either a) not approve of the CASA report, or b) delay the required certificate so that the report will not be submitted within the required time.

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8. I understand that only after certification and approval by defense counsel, I shall I prepare ~~and submit the approved reports~~ to the court. The approved reports shall be circulated at least five (5) days before any hearing in this case at which the report may be considered.

10.9. I will abide the requirements for pre- and post-adjudication reports as described in Rule ~~10-164.2, and 10-164.2~~ and provide a copy of any approved reports to all parties to the case.

11.10. ~~10.~~ I understand that I may attend any hearing set for this case.

12.11. ~~11.~~ I understand that I may supplement or correct my written report during a court hearing; and

13.12. ~~12.~~ I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.2 or if I am no longer a CASA advocate ~~volunteer~~.

WHEREFORE, I respectfully request that this Court accept my appointment as the CASA advocate for this case.

Respectfully Submitted,

CASA advocate

Date

Name of CASA advocate: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

CASA

Parties Entitled to Copies

State of New Mexico _____

Children's Court Attorney: _____

Defense Attorney: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

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[NEW MATERIAL]

10-[XXX]. Certificate of Acceptance of Report of Court-Appointed Special Advocate in Delinquency Act Cases.

STATE OF NEW MEXICO

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE CHILDREN'S COURT

No. _____ In the Matter of

_____ , a Child.

CERTIFICATE OF RECEIPT AND REVIEW OF REPORT
OF COURT-APPOINTED SPECIAL ADVOCATE (CASA)
IN DELINQUENCY ACT CASES

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COMES NOW _____, respondent child's defense counsel in the above captioned case and states the following.

1. I am the respondent child's defense counsel in the above captioned case.
2. I am aware that the CASA advocate in this case has filed Form 10-747 NMRA with the court, certifying that the CASA advocate meets the qualifications under Rule 10-164.2 NMRA, and further that the CASA advocate has reviewed and will abide by the confidentiality provisions of NMSA 1978, Section 32A-2-32 (2009) and Rule 10-166 NMRA, and further that the CASA advocate will promptly request to be relieved of this appointment if the CASA advocate falls out of compliance with Rule 10-164.2 or is no longer a CASA advocate.
3. I have reviewed Rule 10-164.2 and understand my obligations under the Rule.
4. I have reviewed Rule 10-164.2 and understand the obligations of the CASA advocate under the Rule, including the timing of the filing obligations for the report.
5. I have received the report of the CASA advocate in this case.
6. The report was submitted to me by the CASA advocate more than 10 days before the next scheduled hearing in this matter as required by Rule 10-164.2.
7. I understand that my timely review of the CASA report is important to the proceedings.

8. I have reviewed the contents of the CASA report.

9. The next scheduled hearing is five (5) days or more prior to the filing of this Certificate

10. I [approve][do not approve] the disclosure of the CASA report to the parties and the court.

Respectfully Submitted,

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Signature

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Date of Filing

Name of Respondent Child Defense Counsel: _____

Office Address: _____

Office Phone Number: _____

Office Email: _____

Certificate of Service

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I certify that a copy of this Certificate of Acceptance has been provided to the CASA advocate and all attorneys for this case on the date of filing.

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Respondent Child Defense Attorney

Parties Entitled to Copies:

The State of New Mexico _____

Children's Court Attorney: _____

CASA Advocate: _____

[Adopted by Supreme Court Order No. _____, effective for all cases pending or filed on or after _____.]

Formatted: Font: Not Bold



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

1 message

Supreme Court <noreply@nmcourts.gov>
Reply-To: noreply@nmcourts.gov
To: rules.supremecourt@nmcourts.gov

Thu, Apr 3, 2025 at 10:30 AM

Name	John Romero
Phone Number	5054806640
Email	jjulio347@gmail.com
Proposal Number	Proposal 2025-001 – CASA Duties
Comment	Comments uploaded as Word Document
File Upload	https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Proposal-2025-001-.-CASA-Duties.docx

Name John Romero

Phone Number 5054806640


Email jjulio347@gmail.com

Proposal Number Proposal 2025-001 – CASA Duties

Comment

Comments uploaded as Word Document

<https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Proposal-2025-001-.-CASA-Duties.docx>

 **Proposal-2025-001-.-CASA-Duties.docx**
20K

I respectfully submit the following comments:

10-164.1. Court-appointed special advocates in child welfare cases.

C. Duties.

COMMENT: Replace “volunteer” with “advocate”

...

D. Communication with respondent.

(1) Pre-adjudication.

COMMENT:

In some jurisdictions, the court practice is to appoint a CASA only after a completed adjudication. The provision is otherwise a useful protection for a respondent.

(2) Post-adjudication.

COMMENT:

Some parent/caregiver attorneys often condition CASA contact with their client on their approval, or only in the presence of counsel. This provision conflicts with the wishes of attorneys who may have cause to restrict CASA contact with their client.

....

10-164.2. Court-appointed special advocates in delinquency or youthful offender cases.

B. Qualifications.

COMMENT: Replace “volunteer” with “advocate”

C. Duties.

COMMENT: Replace “volunteer” with “advocate”

COMMENT:

(1) conditioning interviews of the child on the consent of respondent child and his/her defense counsel supports and protects the attorney-client relationship.

...

D. COMMENT:

There is no paragraph designated as “D”.

E. Communication with respondent child.

COMMENT:

As noted above in C (1).

....

G. Reports.

COMMENT:

Certification of approval by the respondent child’s defense counsel is vital in protecting the rights of the respondent child.

(1) Approval by defense counsel.

COMMENT:

Ensuring that CASA reports do not negatively impact the respondent child’s rights is important. Similarly, it is also important that defense counsel promptly reply with approval and certification, or with written notice to the CASA that certification will not be provided. If the court is expecting a CASA report, a minimal explanation should be provided indicating that the procedure has been followed and not ignored.

....

10-528. Order appointing court-appointed special advocate in abuse/neglect proceedings

This matter came before the Honorable . . .

COMMENT:

If the child is an Indian child, there is no provision for identifying the ICWA/IFPA worker.

3.

COMMENT:

Whether the child is an Indian Child may not be determined until after adjudication and disposition. If there is *reason to know* the child is an Indian child the case will proceed as though it is subject to IFPA/ICWA. Later in the

proceeding, it may be confirmed, or there may be written denials by the tribal entities who received notice that the child is NOT an Indian child.

IT IS THEREFORE ORDERED that ____ (*name of CASA volunteer*)

COMMENT:

delete "volunteer"

...

IT IS FURTHER ORDERED that five (5) days before any hearing in this case at which a CASA report will be considered, the CASA shall provide the court with a report and shall provide a copy of the report on all parties . . .

COMMENT:

Replace "on" with "to".

...

IT IS FURTHER ORDERED that once a child has been adjudicated abused and/or neglected . . .

COMMENT:

Change "shall" to "may". Respondents generally have transportation issues, a full schedule of case plan requirements and limited technology to accommodate a mandatory meeting with the CASA. A CASA might have fewer issues precluding case discussions with the respondent attorney.

10-746. Order appointing court-appointed special advocate in delinquency and youthful offender cases.

ORDER APPOINTING

IT IS THEREFORE ORDERED that _____ (*name of CASA volunteer*)

COMMENT:

delete "volunteer".

...

IT IS FURTHER ORDERED that the CASA shall submit any prepared reports to the respondent child's defense counsel for approval at least ten (10) days prior to any hearing at which the report will be considered by the court.

COMMENT:

There is no provision for timely response by defense counsel. A recommended addition could be “defense counsel shall reply at least six (6) days prior the any scheduled hearing with (1) approval and certification, or (2) written notice to the CASA that approval and certification will not be provided”.

...

Parties Entitled to Copies

Children’s Court Attorney: _____

Defense Attorney: _____

COMMENT:

Add Juvenile Probation Officer. While not officially party to the case, a JPO plays a critical role in maintaining contact with the respondent and gathering and reporting information about the child’s status.

Juvenile Probation Officer: _____

...

10-747. Acceptance of court-appointed special advocate in delinquency and youthful offender cases.

**ACCEPTANCE OF
COURT-APPOINTED SPECIAL ADVOCATE (CASA)**

...

10. I understand that I shall prepare and submit approved reports to the court at least five (5) days before any hearing in this case at which the report may be considered. I will abide the requirements for pre- and post-adjudication reports as described in Rule 10-164.2, and provide a copy of any approved reports to all parties to the case.

10. I understand that I may attend any hearing set for this case.

11. I understand that I may supplement or correct my written report during a court hearing; and

12. I will promptly request to be relieved of my appointment if I fall out of compliance with Rule 10-164.2 or if I am no longer a CASA volunteer.

COMMENT:

There are two (2) paragraphs numbered 10. Sequential paragraphs should be Numbered 11, 12 and 13.

...

Certificate of Service

I certify that a copy of this *Order Appointing Court-Appointed Special Advocate (CASA)* has been provided to all attorneys for this case on the date of filing.

COMMENT:

After "case" add: "and assigned Juvenile probation officer."

CASA

Parties Entitled to Copies

Children's Court Attorney: _____

Defense Attorney: _____

COMMENT:

Add: "Juvenile Probation Officer"

Juvenile Probation Officer: _____

**New Mexico
Courts**

Amy Feagans <supajf@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

1 message

Supreme Court <noreply@nmcourts.gov>

Thu, Apr 3, 2025 at 1:43 PM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name	Veronica Montano-Pilch
Phone Number	5059773432
Email	veronica@newmexicocasa.org
Proposal Number	Proposal 2025-001
Comment	I have attached a document.
File Upload	https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Public-Comment-on-Proposed-Revisions-to-the-CCR-and-Forms-Proposal-2025-001-NM-CASA-4-2-2025.pdf

Name Veronica Montano-Pilch

Phone Number 5059773432

Email veronica@newmexicocasa.org

Proposal Number Proposal 2025-001

Comment

I have attached a document.

<https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Public-Comment-on-Proposed-Revisions-to-the-CCR-and-Forms-Proposal-2025-001-NM-CASA-4-2-2025.pdf>**Public-Comment-on-Proposed-Revisions-to-the-CCR-and-Forms-Proposal-2025-001-NM-CASA-4-2-2025.pdf**
163K

RE: Public Comment on Proposed Revisions to the Children’s Court Rules and Forms – Proposal 2025-001

On behalf of the New Mexico CASA Association and the 13 independent CASA programs serving 25 counties across the state, thank you for the opportunity to submit public comment on the Proposed Revisions to the Children’s Court Rules and Forms – Proposal 2025-001.

New Mexico CASA Programs: A Vital Safety Net for Children in Foster Care

For more than 40 years, CASA (Court-Appointed Special Advocates) programs have played a vital role in New Mexico’s child welfare system. Advocates are specially trained community members appointed by judges to provide consistent, individualized advocacy for children who have experienced abuse or neglect. Each Advocate typically works on one case at a time, ensuring focus and stability throughout the life of the case. These advocates prepare court reports that offer vital insights and help judges make informed child-centered decisions.

The CASA Network in New Mexico is built on a strong foundation of professional standards, judicial collaboration, and community trust. The proposed revisions to Rule 10-164 represent significant and far-reaching changes to the CASA program’s scope, responsibilities, and operational structure. Given the breadth of these revisions, meaningful input from the CASA Network, Children’s Court Judges, and the Administrative Office of the Courts (AOC) must be sought to ensure that any changes are practical, necessary, and aligned with judicial realities.

While Rules 10-164.1 and 10-164.2 retain the discretionary language that a CASA “may be appointed” by a Children’s Court Judge, many of the proposed changes would significantly expand CASA’s role and responsibilities. These expansions would require additional funding, staffing, and infrastructure that are not presently available to many CASA programs. As with any systemic changes, appropriate financial and logistical support is critical to effective implementation.

Concerns Regarding Specific Provisions

Why change the existing Rule 10-164? The current rule has served as a flexible and effective foundation for judicial appointments and CASA engagement for decades. It offers clarity without overreach and has enabled CASA programs to thrive across a wide range of jurisdictions. Any revisions introducing new roles or procedural obligations should be carefully considered. The following comments outline key concerns and recommendations regarding the proposed changes.

- 1) **General Language-** The proposed language references the National CASA Standards in four separate instances. However, it should instead refer to the New Mexico CASA Standards and/or applicable court contracts, as current state contracts do not require CASA programs to be members of the National CASA Association. Referencing the appropriate governing standards ensures accuracy and reflects the regulatory framework under which New Mexico CASA programs operate.
- 2) **Rule 10-164.1(F)(1) – Pre-Adjudication Reports**
The current and proposed rules allow for Advocates to be assigned prior to adjudication, and the new rule will require Advocates to submit pre-adjudication reports. This raises significant

concerns regarding legal exposure and role clarity. If a respondent shares sensitive information with an Advocate, there is a risk that the Advocate could be subpoenaed as a witness. This possibility undermines the trust-based relationship between the child and the Advocate and places the Advocate in an adversarial role for which they are neither trained nor intended. Advocates must remain focused on the child's best interests and not be placed in evidentiary or testimonial positions that conflict with their purpose.

3) **Rule 10-164.2 – CASA in Delinquency Cases**

This provision appears to codify practices currently used in certain jurisdictions, such as the 5th Judicial District (Roswell), where Advocates may be appointed in delinquency matters per the current rule 10-164, *“A court appointed special advocate (“CASA”) may be appointed by a children’s court judge pursuant to the provisions of this rule to assist in any children’s court proceeding.”* While CASA programs support innovative practices that holistically serve children and youth, expanding CASA’s role into delinquency cases raises concerns regarding training requirements and resource limitations. CASA programs want the ability to be appointed in delinquency cases, especially cases of cross-over youth. However, a consistent framework and clearly defined appointment parameters must be developed before any such role expansion is adopted statewide. Additionally, the structure and content of appointment orders should be shaped collaboratively by the New Mexico CASA Network and the AOC—not prescribed through a rule change—ensuring flexibility and responsiveness to local program capacities and judicial discretion.

4) **Rule 10-164.2(G) – CASA Reports and Defense Attorney Approval**

Requiring a defense attorney’s formal approval before a CASA report can be served may create procedural delays and tension. While the protection of the defendant’s rights is critical, a collaborative review process that allows defense counsel to consult with the Advocate—without imposing a certification requirement—would better balance due process with timely reporting. If consultation between the CASA and the defense attorney does not occur, the CASA should report their efforts to reach counsel to the court.

5) **Rules 10-528, 10-529, and 10-746 – CASA Standards, Confidentiality, and Oversight**

These provisions seek to codify elements already governed by the State CASA Standards, AOC contract requirements, and existing confidentiality laws. The operational oversight and compliance mechanisms currently in place through the New Mexico CASA Association—contracted by the AOC—allow for programmatic flexibility and local adaptation. Current CASA court orders define what a CASA Advocate *can* do—not only what they *cannot* do—offering the clarity and direction necessary for advocates to fulfill their role effectively. Codifying these operational elements into rigid court rules may eliminate the ability to respond to changing needs and local contexts across diverse jurisdictions, potentially creating unintended barriers that hinder service delivery to children and families.

a) **Additional Concerns Regarding Order Appointing CASA- Rule 10-528**

- i) *Multiple Orders*—“1. The child in this case [has] [has not]”—suggests that separate appointment orders may be required for the pre-adjudication and post-adjudication phases. This raises an important procedural question: Would a formal removal order

be necessary to end the pre-adjudication appointment before issuing a new one? Without such a removal, the system would reflect two active Advocates on the same case, creating confusion in case tracking and data reporting.

- ii) *Language Discrepancy*- The phrase in the order “2. A CASA will aid the court” conflicts with the language in Rule 10-164.1(A), which states that “a CASA may be appointed by a Children’s Court Judge to assist in any...” The terms *aid* and *assist* are not interchangeable in this context—*assist* implies a supportive, non-decisional role consistent with CASA’s function. In contrast, *aid* may suggest a more directive or influential position.
- iii) *Confidentiality and Information Sharing*-Rule 10-528 currently states that “prior to the conclusion of the adjudicatory hearing, a CASA *shall*, at regular intervals, discuss the case and its progress with” a list of individuals and entities, including CYFD’s Permanency Planning Worker, the Children’s Court Attorney, the child’s guardian ad litem or attorney, and others such as the child’s teachers, medical providers, counselors, and service providers. This broad directive raises serious concerns regarding confidentiality and the appropriate scope of information sharing. Not all listed parties—particularly teachers and community or service providers—are entitled to detailed information in cases that may be sequestered or protected by court order. A CASA’s responsibility to protect sensitive and confidential information must precede a generalized expectation to share case progress with a broad group of individuals. Advocates must operate within clearly defined confidentiality boundaries to preserve the integrity of the child’s case, respect privacy rights, and uphold legal and ethical obligations. Requiring or implying that Advocates must regularly discuss case details with individuals not parties to the case creates unnecessary risk and may conflict with court-imposed limitations or best practices related to privileged information. We recommend revising this provision to clarify that Advocates may consult with individuals only when appropriate and that statute, CASA Standards, and local court orders must maintain confidentiality.

Recommendation

Given the substantial implications of these proposed revisions, we respectfully urge the Children’s Court Rules Committee (CCRC) and the Supreme Court to engage in continued and meaningful collaboration with the New Mexico CASA Network, Children’s Court Judges, Administrative Office of the Courts, Office of Family Representation and Advocacy (OFRA), Juvenile Probation (CYFD), and Office of the Child Advocate. The thoughtful and inclusive dialogue will help ensure that any modifications to Rule 10-164 support CASA’s vital mission while maintaining court proceedings’ effectiveness, flexibility, and responsiveness.

New Mexico CASA remains steadfast in its commitment to providing consistent, high-quality advocacy for the State’s most vulnerable children. We look forward to working together to ensure that the Children’s Court Rules continue to reflect best practices in child advocacy and judicial decision-making.



**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Comments to Proposal 2025-001

Monica Zamora <monicazlaw@gmail.com>

Fri, Apr 4, 2025 at 8:52 AM

Reply-To: monicazlaw@gmail.com

To: rules.supremecourt@nmcourts.gov

Ms. Garcia,

Please find my comments to Proposal 2025-001 in the attached document. Thank you.

Sincerely,

Judge M. Monica Zamora, Retired



Proposal 2025-001 - Judge Zamora Comments.docx

20K

TO: Elizabeth Garcia, NM Supreme Court Clerk

FR: Judge M. Monica Zamora, Retired

Re: Proposal 2025-001 - Proposed Changes to Children's Court Rule 10-164

The following are my comments on Proposal 2025-001, the proposed revisions to the Children's Court's Rules and Forms. My comments are limited to proposed Rules 10-164.1 and 10-164.2.

General Comments

I recognize the efficiency in the creating two rules specific to child welfare and juvenile delinquency. However, I have several general questions about the application and use of CASAs in juvenile delinquency matters. I recognize that there are less than a handful of jurisdictions that appoint a CASA to a juvenile delinquency matter, but I do not understand why they would do so. In light of a CASA's powers and duties, pursuant to Rule 10-164(C) and (D) and duties, pursuant to proposed Rule 10-164.2(C), isn't CASA duplicating the requisite efforts of the child's attorney, staff (social worker, investigator) and juvenile probation? Also, by adopting this proposed rule, it implies and encourages courts to appoint a CASA in juvenile delinquency cases. Taking into consideration thirteen jurisdictions, is the statewide CASA organization ready for an increase in the requests for appointments? Do they have enough volunteers for both child welfare and juvenile cases? CASA's goal, for at least the last twenty years, has been to appoint a CASA to every child welfare case. This goal has not been met. Additionally, does their budget allow for such an increase in the request for appointments and the proposed duties? Last, for those cross-over juveniles (simultaneously in the child welfare and juvenile justice systems) a mechanism would need to be put in place to ensure that a CASA is not appointed in each case, but rather one CASA for both or all cases associated with that child. See NMSA 1978, Section 32A-1-3(F) (to provide for the cooperation and coordination of the civil and criminal systems for investigation, intervention and disposition of cases, to minimize interagency conflicts and to enhance the coordinated response of all agencies to achieve the best interests of a child victim)[Emphasis added]; NMSA 1978, Section 32A-1-3(G) to provide continuity for children and families appearing before the children's court by assuring that, whenever possible, a single judge hears all successive cases or proceedings involving a child or family).

Specific Comments:

Rule 10-164.1 (D)(1) and (2) Communication with Respondent, pre and post adjudication: Generally, I have concerns with the implications of this provision on the attorney client privileged communications. Child welfare cases are highly emotionally charged cases and respondents are less than sophisticated in these matters, an attorney should be concerned that their client is speaking to a reporting entity without the attorney present.

Rule 10-164.2 (C)(1) and (E) Duties and Communication with respondent child: Again, I have concerns with the implications of these provisions on the attorney client privileged communications. I recognize that the communications can only happen with the child's

attorney's permission. However, in a matter based on the adult criminal code, this invites error. The child has constitutional rights that an attorney cannot waive.

Rule 10-164.2 (G)(1)(a) and (b) Reports, Approval by defense counsel: The timeframe from the time CASA provides the report to defense counsel, the time defense counsel reviews and gives their approval, and the minimum of five days prior to the hearing is very tight. The time needs to be enlarged, in the event there are significant revisions or differences in the contents of the report. It would also help if defense counsel were given a deadline as well. If counsel cannot or does not respond immediately to the CASA, through no fault of their own, CASA would be unable to meet the required minimum of five days before the hearing.

Thank you for the opportunity to provide public comment on Proposal 2025-001.

**New Mexico
Courts****Alyssa Segura** <supams@nmcourts.gov>**[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court**

1 message

Supreme Court <noreply@nmcourts.gov>

Fri, Apr 4, 2025 at 11:08 AM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name Jennifer

Sunshine

**Phone
Number** 5059030305**Email** jsunshine@nmkidsmatter.org**Proposal
Number** 2025-001**Comment** Re: Public Comment on Proposed Revisions to the Children's Court Rules and Forms – Proposal 2025-001

New Mexico Kids Matter respectfully submits the following public comment regarding Proposal 2025-001 and the proposed revisions to the Children's Court Rules and Forms.

Regarding the public comment made by the New Mexico CASA Association in response to the Proposal 2025-001, we respectfully do not support the recommendation made by New Mexico CASA Association to reference the New Mexico CASA Standards in place of the National CASA Standards. While we do not object to the exclusion of the National CASA Standards in the proposed rules, we advise against incorporating the New Mexico CASA Standards at this time. To our knowledge, these standards remain in draft form and have not undergone a formal adoption process. This creates uncertainty around their final content and timeline for implementation. Additionally, if any provisions of the New Mexico CASA Standards conflict with National CASA Standards, it could create compliance conflicts that would place programs like ours in an untenable position. For these reasons, we ask the Committee to avoid referencing the New Mexico CASA Standards in the final rule revisions and instead maintain more neutral language that supports adherence to applicable legal, ethical, and contractual obligations.

We appreciate the thoughtful and comprehensive nature of the remainder of NM CASA's public comment. Many of the concerns they raise—particularly regarding practical implementation, resource constraints, and the importance of local flexibility—are well-founded and merit serious consideration. In particular, we concur with the points raised in sections 2, 4, and 5, which address pre-adjudication reporting, defense counsel approval, and the risks of codifying operational standards that may unintentionally limit program responsiveness. We support continued dialogue to ensure that any revisions to the rules preserve both the integrity and feasibility of all CASA programs in New Mexico.

Thank you for the opportunity to provide input on these important proposed revisions.

Sincerely,

Jennifer Sunshine
Executive Director
New Mexico Kids Matter

Name Jennifer Sunshine

Phone Number 5059030305

Email jsunshine@nmkidsmatter.org

Proposal Number 2025-001

Comment

Re: Public Comment on Proposed Revisions to the Children's Court Rules and Forms – Proposal 2025-001

New Mexico Kids Matter respectfully submits the following public comment regarding Proposal 2025-001 and the proposed revisions to the Children's Court Rules and Forms.

Regarding the public comment made by the New Mexico CASA Association in response to the Proposal 2025-001, we respectfully do not support the recommendation made by New Mexico CASA Association to reference the New Mexico CASA Standards in place of the National CASA Standards. While we do not object to the exclusion of the National CASA Standards in the proposed rules, we advise against incorporating the New Mexico CASA Standards at this time. To our knowledge, these standards remain in draft form and have not undergone a formal adoption process. This creates uncertainty around their final content and timeline for implementation. Additionally, if any provisions of the New Mexico CASA Standards conflict with National CASA Standards, it could create compliance conflicts that would place programs like ours in an untenable position. For these reasons, we ask the Committee to avoid referencing the New Mexico CASA Standards in the final rule revisions and instead maintain more neutral language that supports adherence to applicable legal, ethical, and contractual obligations.

We appreciate the thoughtful and comprehensive nature of the remainder of NM CASA's public comment. Many of the concerns they raise—particularly regarding practical implementation, resource constraints, and the importance of local flexibility—are well-founded and merit serious consideration. In particular, we concur with the points raised in sections 2, 4, and 5, which address pre-adjudication reporting, defense counsel approval, and the risks of codifying operational standards that may unintentionally limit program responsiveness. We support continued dialogue to ensure that any revisions to the rules preserve both the integrity and feasibility of all CASA programs in New Mexico.

Thank you for the opportunity to provide input on these important proposed revisions.

Sincerely,

Jennifer Sunshine
Executive Director
New Mexico Kids Matter

**New Mexico
Courts****Alyssa Segura <supams@nmcourts.gov>**

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

Supreme Court <noreply@nmcourts.gov>

Fri, Apr 4, 2025 at 2:12 PM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name	Kristen
	Frueh Leyba
Phone Number	5054709505
Email	aockrf@nmcourts.gov
Proposal Number	2025-001 CASA Duties
Comment	<p>Thank you for the opportunity to offer feedback on Proposal 2025-001. With great respect for the work of the Court and the Rules Committee, I would like to express concern regarding some elements of the proposed changes to CASA rules.</p> <p>I join others in opposing Proposal 2025-001 as drafted. The proposed rules expand CASA duties into areas that raise legal, ethical, and logistical concerns. Requiring pre-adjudication reporting, expanding CASA into delinquency cases without infrastructure, and mandating broad information-sharing jeopardizes confidentiality and oversteps the volunteer role.</p> <p>Additionally, the rules inappropriately reference National CASA Standards. New Mexico CASA is no longer affiliated with the National CASA Association and operates under its own state-developed standards. Referencing national guidelines misrepresents the regulatory framework and creates unnecessary confusion.</p> <p>These changes contradict CASA's foundational purpose and may disrupt effective advocacy. I greatly appreciate the thoughtful work that has gone into this proposal and simply hope that further dialogue with CASA programs, judges, and the AOC might help refine these changes in a way that supports the Court's goals while also preserving the integrity and workability of CASA advocacy.</p>

Name Kristen Frueh Leyba

Phone Number 5054709505

Email aockrf@nmcourts.gov

Proposal Number 2025-001 CASA Duties

Comment

Thank you for the opportunity to offer feedback on Proposal 2025-001. With great respect for the work of the Court and the Rules Committee, I would like to express concern regarding some elements of the proposed changes to CASA rules.

I join others in opposing Proposal 2025-001 as drafted. The proposed rules expand CASA duties into areas that raise legal, ethical, and logistical concerns. Requiring pre-adjudication reporting, expanding CASA into delinquency cases without infrastructure, and mandating broad information-sharing jeopardizes confidentiality and oversteps the volunteer role.

Additionally, the rules inappropriately reference National CASA Standards. New Mexico CASA is no longer affiliated with the National CASA Association and operates under its own state-developed standards. Referencing national guidelines misrepresents the regulatory framework and creates unnecessary confusion.

These changes contradict CASA's foundational purpose and may disrupt effective advocacy. I greatly appreciate the thoughtful work that has gone into this proposal and simply hope that further dialogue with CASA programs, judges, and the AOC might help refine these changes in a way that supports the Court's goals while also preserving the integrity and workability of CASA advocacy.



**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[nmsupremecourtclerk-grp] Second Judicial District Court's Comments on 2025 Rulemaking Proposals

Alison Orona <albdayg@nmcourts.gov>

Fri, Apr 4, 2025 at 3:15 PM

Reply-To: albdayg@nmcourts.gov

To: nmsupremecourtclerk@nmcourts.gov

Good afternoon Ms. Garcia,

Please see attached letter from Acting Chief Judge Levy regarding the Supreme Court's 2025 Rulemaking Proposals.

The letter comments on the following proposals:

- Proposal 2025-001 – CASA Duties
- Proposal 2025-002 – Improving Outcomes for Crossover Youth
- Proposal 2025-003 – Service by Social Media
- Proposal 2025-006 – Residential Foreclosures
- Proposal 2025-028 – Pronouns in UJIs
- Proposal 2025-030 – Orders of Expungement
- Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings

Thank you for the opportunity to comment, and please let me know if you have any questions. Thank you. Respectfully,

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April 4, 2025

Elizabeth A. Garcia, Chief Clerk of the Court
New Mexico Supreme Court
P.O. Box 848
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Via email only to nmsupremecourtclerk@nmcourts.gov

Re: Comments on New Mexico Supreme Court 2025 Rulemaking:
Proposal 2025-001 – CASA Duties
Proposal 2025-002 – Improving Outcomes for Crossover Youth
Proposal 2025-003 – Service by Social Media
Proposal 2025-006 – Residential Foreclosures
Proposal 2025-028 – Pronouns in UJIs
Proposal 2025-030 – Orders of Expungement
Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings

Dear Ms. Garcia,

As Acting Chief Judge of the Second Judicial District Court (the Court), I write to submit public comment to the 2025 proposed amendments to the Supreme Court's Rules of Practice and Procedure. My comments are on behalf of the Court as a whole, although individual judges and staff may submit their own additional comments, as well. My comments are as follows:

I. Proposal 2025-001 – CASA Duties

Proposal 2025-001 seeks to clarify CASA duties, including that "[a]ny report prepared by a CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered." However, Rule 10-164.1(F) and 10-164.2(G) do not include whether the CASA report is also intended to be filed into the case.

If the intention is to have the court file the report, I recommend clarifying language for the clerks, such as (addition in yellow):

. . . Any report prepared by the CASA shall be served on the parties and the court at least five (5) days prior to the hearing at which it will be considered. **Upon receipt, the court shall file into the case.** . . .

II. *Proposal 2025-002 – Improving Outcomes for Crossover Youth*

The Court appreciates the Committee’s work on providing a mechanism for parties in crossover youth matters to have notice of the other case(s). The Court understands the importance of this facilitation. However, the Court has concerns about (1) the Court’s responsibility to complete and send the notices, and (2) the proposed rules do not account for whether the filings would be sealed or the hearings would be sequestered.

(1) The Court’s Responsibility to Create and File the Notice is Contrary to a Court Clerk’s Responsibilities and Overly Burdens the Court.

Proposed Rule 10-172(A) requires the Court to complete and file a notice of crossover youth. This poses practical and logistical issues. First, the Court’s Clerk’s Office does not typically *create* filings. *See e.g.*, Rule 23-113(C)(3) (prohibiting court staff from “creating documents” when communicating with self-represented litigants). This proposed rule would require the Clerk’s Office to do independent research, complete a document, and then file and serve the document. This is contrary to the Clerk’s Office’s role, which is predominantly to be the record keeper. *See* NMSA 1978, § 34-1-6 (“The clerks of the . . . inferior courts, . . . shall seasonably record the judgments, rules, orders and other proceedings of the respective courts and make a complete alphabetical index thereto, issue and attest all processes issuing from their respective offices, and affix the seal of office thereto; they shall preserve the seal and other property belonging to their respective offices.”); *see e.g.*, *Ennis v. KMART Corp.*, 2001-NMCA-068, ¶ 10, 131 N.M. 32, 33 P.3d 32, (holding that a court clerk lacks the discretion to reject pleadings for technical violations).

Instead, the Clerk’s Office accepts filings, *see* Rule 1-005 NMRA, Rule 5-103 NMRA, issues subpoenas, *see* Rule 1-045(A) NMRA, Rule 5-511(A) NMRA, issues writs, *see* Rule 1-065, and issues summons, *see* Rule 1004(A) and (B) that the *parties* or *attorneys* provide to the Clerk’s Office. In these scenarios, the *parties* or *attorneys* create the document, not the court clerk. The Clerk’s Office does not do independent research on a case, create a document, and then file it.

In Indian Family Protection Act (IFPA) cases, the Child, Youth, and Families Department (CFYD) notifies the Clerk’s Office when a child custody proceeding involves an Indian child, and the Clerk’s Office will create and file the notice. *See* NMSA 1978, § 32A-28-5 (A) (“In a child custody proceeding when the court knows or has reason to know that an Indian child is involved, the department shall notify the parent, guardian or Indian custodian and the Indian child's tribe[. . .]”) (emphasis added). Similarly, in adoption cases, the party or attorney presents a completed application for a birth certificate and the clerk will certify it. *See* NMSA 1978, § 32A-5-38; Rule LR2-501 NMRA.

Additionally, the Court is concerned that the turnaround time under 10-172(B) is very quick – “within one (1) day of the filing of the petition or criminal information or indictment.” Requiring this on the Court would be a huge influx of work, with timelines that may not be feasible.

Furthermore, the proposed rule does not include any district-wide jurisdiction limitations. This would further increase the Court’s work load and create a new requirement for the Clerk’s Office to search across jurisdictions.

Putting this requirement on the Court – which in turn, will put it on court clerks – is impractical, contrary to Section 34-1-6, and improper. The Court and court clerks can only respond with the information parties to present to them; the Court is not an independent fact gatherer. The responsibility to determine if a child is involved in both a child welfare case and a delinquency case should be to the parties in the case, not to the Court, an independent and neutral arbitrator.

The Court appreciates the work of the Committee on this important issue. The Court respectfully recommends the Committee explore collaboration with other stakeholders, including CYFD. While this Court cannot speak on behalf of the judiciary as a whole, this Court would happy to discuss facilitation of getting CYFD the relevant information, such as daily or weekly reports if needed and if legally appropriate.

(2) The Proposal Does Not Account for When Filings Would be Sealed and When Hearings Would be Sequestered.

Since delinquency proceedings are open hearings and delinquency filings are not sealed, yet child welfare proceedings are sequestered and child welfare filings are sealed, I recommend adding language clarifying when filings are sealed pursuant to NMSA 1978, § 32A-4-33 (2022) and hearings are sequestered pursuant to NMSA 1978, § 32A-4-20 (B) (2014), such as:

E. Notice upon filing of petition for abuse and neglect or families in need of court-ordered services cases. If the child has a pending delinquency or criminal case, is under the supervision of juvenile probation, or is serving a commitment, and is subsequently placed in the CYFD’s legal custody in an abuse and neglect case or a family in need of court-ordered services case, the court shall notify juvenile probation and all parties to both the delinquency or criminal case and the child welfare case that the child is a crossover youth within ten (10) days of the entry of the order granting legal custody of the child in CYFD. The notice shall be automatically sealed.

F. Sequestered proceedings. Proceedings that discuss the crossover youth’s child welfare case shall be closed to the general public.

III. Proposal 2025-003 – Service by Social Media

The Court appreciates the Committee’s work on the proposed amendments to Rule 1-004 allowing service via email, social media, and text messages. The proposed rule change reflects the evolving nature of communication and the need for more effective, practical means of ensuring notice to parties. The goal of service is to ensure actual notice of a pending case. Service through alternative means, such as email, text message, and social media direct messaging is more likely to lead to actual notice than would publication of notice in a newspaper of general circulation. Many individuals use digital communication on a daily (or more frequently) basis. They are unlikely to see a legal notice in a newspaper but are likely to check their email or direct messages. By expanding acceptable service methods, the rule will be acknowledging this reality and making it more likely that people will have actual notice of cases wherein they are a named party.

The cost of publication is also prohibitive for many parties. For example, any of the cases filed in the Family Court division are grandparents or other family members seeking kinship guardianship of children. The parents are often impossible to locate and are certainly not providing child support to the parties filing for kinship guardianship. Requiring temporary guardians to pay almost \$300 (the cost of a legal notice in the Albuquerque Journal) would devastate their finances. The ability to serve parents through electronic means will hugely benefit the guardians, and therefore the children, in these cases. Instead of spending rent money on publishing, they can provide actual notice through an email or the equivalent.

Further, judges will still be required to determine if service was properly effectuated and the proposed rule changes still require judges to exercise discretion in determining whether electronic service is appropriate in a given case.

This rule change would modernize the service process, improve access to justice, and uphold due process by embracing the communication tools people already use daily.

However, with this said, the Court has concerns with the implementation of the rule.

1. First, the proposal requires the movant to submit admissible evidence (affidavit or other sworn testimony) that “the defendant is the sole owner of the specific social media account, e-mail address, or telephone number proposed for service and [that] the defendant, within thirty (30) days of the motion, has sent or received transmissions from that specific social media account, e-mail address, or telephone number proposed for service.” This standard seems impossible, as how will a party seeking to serve the party would have personal knowledge and/or a sufficient foundation to actually provide evidence of “sole ownership”? This standard appears to invite parties to be forced to attest to something that cannot possibly know.
2. Second, the Court recommends that the Committee change the requirement that the defendant have received the electronic service within 30 days *of the motion* to be within 30 days of entry of the order allowing such service of process.

3. Third, the language to be included in the email, text, social media message, etc. that “You have been sued” (etc.) is potentially harmful. It reads like a scam, and it may deter people from reading the message. This is especially true because the person making the service is not someone the recipient will likely know. Furthermore, the rule should also include a prohibition on serving the documents by hyperlink, e.g., “You have been sued. Click on this link to get your summons and complaint.” The actual documents must be served, and I think the rule should prohibit service by hyperlink.
4. Finally, the proposal does not appear to account for Domestic matters or Children’s Court matters for which the Rules of Civil Procedure apply. Rule 1-004 applies to all domestic matters, emancipations, adoptions, and expungements. However, the proposed language for the substance of the message to the party under new Subparagraph Rule 1-004(F)(4) assumes service only in the context of a civil lawsuit. That required language is “Important information—You have been sued. If you do not file a response to the lawsuit, the court may decide the case without hearing from you, and you could lose the case.” This language would be required for service by social media (Rule 1-004(F)(4)(c)(i)), email (Rule 1-004(F)(4)(d)(ii)-(iii)), and text message (Rule 1-004(F)(4)(e)(i)).

I would recommend a change to that standard required language to contemplate civil cases where “being sued” is not what is commonly understood to occur in those cases. For example, while perhaps technically accurate, a parent likely would not think of “being sued” for emancipation or adoption. Instead, the required language should read something like, “Important information—You ~~[have been sued]~~ are part of a court case. If you do not file a response ~~[to the lawsuit]~~, the court may decide the case without hearing from you, and you could lose the case.” I would further suggest a corresponding change to the email subject line under Rule 1-004(F)(4)(d)(ii) as such: “Important information—You are ~~[being sued]~~ are part of a court case.”

A smaller recommendation is to fix the errant “be” in Subparagraph (4)(a). “...service cannot ~~[be]~~ reasonably be made under Subparagraphs (F)(1), (F)(2), or (F)(3).”

IV. Proposal 2025-006 – Residential Foreclosures

The Court recommends adding the word “residential” in the last sentence within the body of Rule 1-003.3, as follows (addition in yellow):

1-003.3. Commencement of residential foreclosure action; certification of pre-filing notice required.

A certification of pre-filing notice, substantially in the form approved by the Supreme Court as Form 4-227 NMRA, shall be submitted with any complaint initiating a residential foreclosure action. Notwithstanding the provisions of Rule 1-005(F) NMRA, the clerk shall not accept for filing any residential foreclosure complaint that is not submitted with the certification form required under this rule.

V. Proposal 2025-028 – Pronouns in UJIs

The Court supports this proposal and has not further comments.

VI. Proposal 2025-030 – Orders of Expungement

This proposal includes a requirement that any appellate court with related records be served the order. The Court suggests that, in order for the Court to be able to find all related appellate case, the Committee also updates the form petition to include an additional paragraph for appellate cases. We recommend the following:

5. The following appellate court case(s) are related to Petitioner's Petition to Expunge:
New Mexico Court of Appeals case number(s): _____
New Mexico Supreme Court case number(s): _____

VII. Proposal 2025-031 – Use of Personal Pronouns and Designated Salutations in Court Pleadings

The Court supports this proposal and has not further comments.

Respectfully,



Jane C. Levy
Acting Chief Judge
Second Judicial District Court

**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

Supreme Court <noreply@nmcourts.gov>

Sat, Apr 5, 2025 at 10:17 AM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

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Proposal Number	2025-001
Comment	Attached please find my comments. Thank you for your consideration.
File Upload	https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Comments-to-Proposed-Changes-to-Rule-1-64.pdf

Name Carmen Garza

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Email carmen.e.garza2022@gmail.com

Proposal Number 2025-001

Comment

Attached please find my comments. Thank you for your consideration.

<https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/Comments-to-Proposed-Changes-to-Rule-1-64.pdf>**Comments-to-Proposed-Changes-to-Rule-1-64.pdf**

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Carmen E. Garza
2510 Snow Road
Las Cruces, NM 88005

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, NM 87504

Re: Proposed changes to Rule 10-164 NMRA

Dear Ms. Garcia,

Thank you for the opportunity to submit my comments on the Proposed Revisions to the Children's Court Rules and Forms-Proposal 2025-001.

I have been a CASA for the last two years and I have spent hundreds of hours advocating for four minor siblings who have experienced abuse and neglect. Each child has significant special needs as a result of the abuse and neglect.

During this time, I have prepared numerous court reports that offer honest and independent insights. I have worked closely with CYFD permanency workers, resource parents, therapists, teachers, and medical providers. I have attended an extensive CASA orientation and I have participated in monthly training opportunities. I have been closely supervised by CASA staff throughout this case.

The proposed changes to Rule 10-164 represent significant and seemingly overwhelming changes to a CASA's role and responsibility. I am concerned that these changes could serve to dissuade individuals from serving as CASAs.

Specifically, I am concerned about expanding CASA's role in delinquency cases without a consistent framework, comprehensive training, and a clearly defined role. I am also concerned that Rule 10-164.2(G) would create delays and unnecessary tension between CASA and defense attorneys.

Before these rules are adopted, I would recommend collaboration between CASA, children's court judges, attorneys, CYFD, and any other stakeholders to allow judicial discretion and local adaptation.

Sincerely,

Carmen E. Garza

Your Name