

1 **10-164. ~~[Court appointed special advocates.] Court-appointed special advocates in child~~**
2 **welfare cases.**

3
4 A. **Appointment.** A ~~[court appointed special advocate]~~ court-appointed special
5 advocate (“CASA”) may be appointed by a children’s court judge ~~[pursuant to]~~ under the
6 provisions of this rule to assist in any ~~[children's court]~~ abuse and neglect, families in need of
7 court-ordered services, or fostering connections proceeding.

8 B. **Qualifications.** Any ~~[volunteer appointed to serve as a]~~ CASA ~~[pursuant to]~~
9 appointed under this rule shall:

10 (1) be ~~[of the age of majority]~~ be at least twenty-one (21) years of age;

11 (2) have successfully passed screening requirements, including a written
12 application, personal interview, reference checks and criminal records checks;

13 (3) have successfully completed initial and regular in-service training under
14 appropriate guidelines ~~[in accordance with the guidelines of the statewide CASA network];~~ and

15 (4) remain under the supervision of the local CASA director.

16 ~~[C. Powers. The CASA may assist the court:~~

17 (1) ~~— in determining the best interests of the child by investigating the facts of the~~
18 ~~situation when directed by the court and submitting reports to the parties; and~~

19 (2) ~~— by monitoring compliance with the treatment plan and submitting reports to~~
20 ~~the court and the parties subsequent to adjudication.]~~

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

24 (1) interviewing the child or eligible adult in a fostering connections case;

1 (2) ___ reviewing records other than those records to which access is limited by the
2 court;

3 ~~[(2)]~~ (3) interviewing respondents as permitted under Paragraph D;
4 [appropriate parties];

5 ~~[(3)]~~ (4) ___ interviewing other persons with information relevant to the child's
6 or eligible adult's best interests;

7 (5) ___ monitoring the progress of the case [~~progress~~];

8 ~~[(4)]~~ (6) ___ monitoring compliance with the case plan;

9 (7) ___ monitoring progress in addressing the causes and conditions that brought
10 the child into custody;

11 (8) ___ preparing reports based on the investigation conducted by the CASA,
12 including recommendations to the court; and

13 ~~[(5)]~~ (9) ~~[conducting business while]~~ maintaining confidentiality of information
14 obtained.

15 **D. Communication with respondent prior to adjudicatory hearing.** Prior to the
16 conclusion of the adjudicatory hearing, a CASA shall not interview a respondent unless the
17 respondent and the respondent's counsel have consented to the interview.

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

21 **F. Reports.** Any reports prepared by the CASA [~~volunteer~~] shall be served on the
22 parties and the court at least five (5) days prior to the hearing at which it will be considered. Upon
23 receipt, the court shall file the report into the court record. Any CASA report shall state whether

1 the child has been adjudicated as to each respondent in the case at the time the report is filed and
2 shall include a list of persons that the CASA consulted in preparation of the report. [not be filed
3 with or considered by the children's court judge prior to the conclusion of the adjudicatory
4 proceeding. The report shall be served on the parties, but not the court, at least five (5) days prior
5 to the hearing at which it will be considered.]

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

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

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

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

16 (2) **Post-adjudication reports.** Once a child has been adjudicated abused or
17 neglected as to a respondent, a CASA report may include any information or recommendations
18 related to the child's best interest and the needs of the family consistent with the duties listed in
19 Paragraph C of this rule.

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

22 [Adopted, effective September 1, 1995; as amended, effective March 1, 2003; Rule 10-
23 121 NMRA, recompiled as Rule 10-164 NMRA by Supreme Court Order No. 08-8300-042,

1 effective January 15, 2009; as amended by Supreme Court Order No. S-1-RCR-2025-00170,
2 effective for all cases pending or filed on or after December 31, 2025.]

3 **Committee commentary. —**

4 Rule 10-164 NMRA governs the appointment of a court-appointed special advocate
5 (CASA) in child welfare cases, including any abuse and neglect case, families in need of court-
6 ordered services case (FINCOS), or fostering connections case provided that a CASA may only
7 be appointed in a fostering connections case with the consent of the eligible adult, see NMSA
8 1978, § 32A-26-5 (2020) (establishing that the eligible adult’s participation in the fostering
9 connections program is voluntary); see also Rule 10-802 NMRA comm. cmt. (explaining how the
10 “best interest” finding in a fostering connections case is distinct from the “best interest” finding in
11 abuse and neglect cases).

12 The 2025 amendments to this rule permit a CASA to be appointed by the court at any stage
13 in an abuse and neglect, FINCOS, or fostering connections proceeding. To protect due process
14 rights for any respondents in these cases, it is best practice to appoint a CASA only after the
15 adjudicatory hearing. See *State ex rel. Children, Youth and Families Dep’t v. Marlene C.*, 2011-
16 NMSC-005, ¶ 28, 149 N.M. 315. However, the court has discretion under this rule to appoint a
17 CASA before the adjudicatory hearing. If a CASA is appointed before the adjudicatory hearing,
18 the CASA must carefully adhere to the communication and reporting requirements of Paragraph
19 D and Subparagraph (F)(1) of this rule.

20 Use Form 10-528 NMRA to appoint a CASA in a child welfare case. Once appointed, the
21 CASA shall certify and submit acceptance of the appointment using Form 10-529 NMRA. Modify
22 these forms as appropriate if appointing a CASA in a fostering connections case.

1 Under the confidentiality provisions of NMSA 1978, Sections 32A-4-33 (2022) and 32A-
2 3B-22 (2005), a CASA must keep confidential any records or information concerning parties to
3 any abuse and neglect or FINCOS case to which the CASA is appointed. Rule 10-166 NMRA
4 provides that the court may sanction or hold in contempt any person who “knowingly discloses
5 any material obtained from a [sealed] court record.” These confidentiality provisions do not
6 preclude or excuse compliance with the mandatory reporting requirements of NMSA 1978, Section
7 32A-4-3 (2021), if the CASA knows or has a reasonable suspicion that a child is an abused or
8 neglected child.
9 [Adopted by Supreme Court Order No. S-1-RCR-2025-00170.]