

10-528. Order appointing court-appointed special advocate in child welfare 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 ("the Department") 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 tribe was represented by _____. The tribal Indian Child Welfare Act (ICWA)/Indian Family Protection Act (IFPA) worker is _____.]³ 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 will assist the court by complying with the duties listed in Rule 10-164(C) NMRA.[]; and

3. This case is subject to the IFPA and the ICWA. A CASA will assist the court in assessing whether the Department is making active efforts at engaging the tribe, communicating regularly with the tribal ICWA/IFPA worker, seeking statutorily-preferred placements for the child, and maintaining the child's cultural connections.]³

IT IS THEREFORE ORDERED that _____ (*name of CASA*) is appointed as the CASA in the above-captioned case under Rule 10-164 NMRA. The CASA is a participant to the case and may review pleadings filed in the above-captioned case. The CASA may also review all records or information concerning the parties in this case, 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 permitted under NMSA 1978, Sections 32A-4-33, -3B-22. 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

1 so appointed by separate order of the court. All parties and counsel shall timely cooperate with the
2 CASA's inquiries as permitted under Rule 10-164.
3

4 **IT IS FURTHER ORDERED** that within five (5) days of the issuance of this order, the
5 CASA shall file with the court Form 10-529 NMRA, to certify that the CASA meets the
6 qualifications under Rule 10-164, that the CASA has reviewed and will abide by the confidentiality
7 provisions of Section 32A-4-33 and Rule 10-166 NMRA, and that the CASA will promptly request
8 to be relieved of this appointment if the CASA falls out of compliance with Rule 10-164 or is no
9 longer a CASA.
10

11 **IT IS FURTHER ORDERED** that five (5) days before any hearing in this case at which
12 a CASA report will be considered, the CASA shall provide the court with a report and shall provide
13 a copy of the report on all parties[, including the tribal ICWA/IFPA worker].³ The court may
14 request additional CASA reports at its discretion. The substance of the reports shall vary,
15 depending on whether the adjudicatory hearing has concluded at the time the report is provided to
16 the parties.
17

18 **IT IS FURTHER ORDERED** that prior to the conclusion of the adjudicatory hearing, a
19 CASA is permitted to discuss matters related to the best interest of the child or eligible adult in
20 the case with the following individuals and entities, as appropriate: CYFD's Permanency Planning
21 Worker, the Children's Court Attorney, the child's guardian *ad litem* or attorney, the foster parent,
22 the child's teachers, the child's medical providers, the child's therapists, the child's counselors,
23 [the tribal ICWA/IFPA worker],³ and any other community or service providers for the family.
24 Under Rule 10-164, prior to adjudication, a CASA is not permitted to interview any respondent to
25 the case unless that respondent's attorney has consented to the interview. Any pre-adjudication
26 report shall provide factual information about the child's wellbeing, including the following:

- 27 1. the child's mental, physical, medical, therapeutic, emotional, cultural, and
28 educational needs;
29 2. the child's recreational and extracurricular-related activities and interests; and
30 3. the quality and regularity of family time between the child, the child's siblings, and
31 the respondents.[]; and
32 4. CYFD's efforts at engaging the child's tribe, including how often CYFD is
33 communicating with the tribal ICWA/IFPA representative, whether CYFD is pursuing the
34 ICWA/IFPA placement preferences, and whether CYFD is making active efforts to maintain the
35 child's cultural connections.]³
36

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

- 43 1. the Department's efforts at implementing and facilitating any court-ordered case
44 plan for the parties; and
45 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 and Rule 10-166. Accordingly, the CASA shall maintain and destroy any case-related documents received in a manner that ensures confidentiality and privacy. The CASA shall not keep any documents once the CASA is relieved of this appointment by this court.

This order of appointment shall remain in effect until further order of this court.

IT IS SO ORDERED.

DISTRICT COURT JUDGE

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: _____

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. Modify the caption and the form as appropriate for use in a fostering connections case.

2. As appropriate, modify to use the plural "respondents" throughout this form. Modify the caption and the form as appropriate for use in a fostering connections case.

3. Insert if the case is subject to the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963, or Indian Family Protection Act, NMSA 1978, §§ 32A-28-1 to -42.

[Adopted by Supreme Court Order No. S-1-RCR-2025-00170, effective for all cases filed on or after December 31, 2025.]

Committee commentary. —

This order can be used to appoint a CASA at any stage in the case. If a CASA is appointed before the adjudicatory hearing, the order of appointment shall remain in effect after the adjudicatory hearing unless otherwise ordered by the court.

[Adopted by Supreme Court Order No. S-1-RCR-2025-00170.]