10-121. Parties.

A. **Delinquency proceedings.** In proceedings on petitions alleging delinquency, the parties to the action are the child alleged to be delinquent and the state.[~~, and any person made a party by the court.~~] The state may name a parent, legal guardian, or custodian of a child alleged to be delinquent as a party in the petition. If the child is in the legal custody of the Children, Youth and Families Department, the state may name the department as a party in the petition. The department shall designate an individual or office to accept service of the petition. The court may join or remove any party in the best interest of the child.

B. **Neglect or abuse and family in need of court-ordered services proceedings; parties.** In proceedings on petitions alleging neglect or abuse or a family in need of court-ordered services, the parties to the action are

(1) the department;

(2) a parent, guardian, or custodian who has allegedly neglected or abused a child or is in need of court-ordered services;

(3) the child alleged to be neglected or abused or in need of court-ordered services; and

(4) any other person [~~made a party by the court.~~] subject to service of process in whose absence complete relief cannot be accorded among those already parties and whose joinder is necessary to serve the child's best interests.

C. **Neglect or abuse and family in need of court-ordered services proceedings; permissive joinder.** In proceedings on petitions alleging neglect or abuse or a family in need of court-ordered services, the department may join as parties the non-custodial parent or parents, the

guardian or custodian of the child, or any other person permitted by law to intervene in the proceedings.

D. **Termination of parental rights; necessary parties.** If a motion to terminate parental rights is filed in an abuse or neglect proceeding and a parent who has a constitutionally protected liberty interest in the child has not been joined as a party in the abuse or neglect proceeding, the department shall name the parent as a party in the motion to terminate parental rights, and the parent shall be served with a summons and a copy of the motion in the manner provided by Rule 10-103 NMRA.

E. **Fostering Connections Act; necessary parties.** In proceedings under the Fostering Connections Act, the parties to the action are the eligible adult and the department.

[As amended, effective July 1, 1995; February 15, 1999; Rule 10-108 NMRA, recompiled and amended as Rule 10-121 NMRA by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as provisionally amended by Supreme Court Order No. 21-8300-007, effective for all cases pending or filed on or after November 12, 2021; provisional amendments approved by Supreme Court Order No. 22-8300-017, effective for all cases pending or filed on or after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2025-188, effective for all cases pending or filed on or after December 31, 2026.]

Committee commentary. — [~~Under~~] Paragraph A of this rule defines[~~,~~] the parties in delinquency proceedings. The parties to every delinquency action are the respondent child[~~,~~] and the state. [~~a parent of a child alleged to be delinquent if named under NMSA 1978, Section 32A-2-28 (1993), and anyone allowed to intervene under Rule 10-122 NMRA.~~] In 2026, the rule was amended to incorporate the statutory authority that permits the state to name a parent in any delinquency petition. NMSA 1978, § 32A-2-28(A) [~~(1993)~~] ("In any complaint alleging

delinquency, a parent of the child alleged to be delinquent may be made a party in the petition."). As defined in the Children's Code, a parent is "a biological or adoptive parent [with] a constitutionally protected liberty interest in the care and custody of the child or a person who has lawfully adopted an Indian child pursuant to state law or tribal law or tribal custom." NMSA 1978, § 32A-1-4(V) [~~(2025)~~]. Paragraph A of this rule further permits the state to name the respondent child's legal guardian or custodian as a party in the delinquency petition. If the child is in the legal custody of the Children, Youth and Families Department, the state may name the department as a party in the petition. The department shall designate an individual or office to accept service of the petition and should inform the district attorney's office of that designation where service can be made.

The court has discretion to join or remove any party in the best interest of the child. This means that the court may join a respondent child's parent, guardian, or custodian, even if the state does not name that party in the delinquency petition. This also means that the court may join [~~of a child alleged to be delinquent if named under NMSA 1978, Section 32A-2-28 (1993), and~~] anyone allowed to intervene under Rule 10-122 NMRA or any respondents under Rule 10-212 NMRA. The children's court attorney is a district attorney who represents the state in these proceedings. *See* NMSA 1978, § 32A-1-6(A) [~~(2005)~~]. An attorney will be appointed for a child not otherwise represented by counsel, as set forth in NMSA 1978, Section 32A-2-14 [~~(2003)~~] [~~(2009)~~] and Rule 10-223 NMRA.

Paragraph B of this rule defines the parties in abuse and neglect cases. [~~These parties are~~] Subparagraphs (B)(1)-(3) list the parties as the department, the respondent parent, guardian, or custodian, and the child [~~as well as any other person or entity made a party by the court~~]. The children's court attorney is selected by and represents the department.

Parties joined under Subparagraph (B)(4) are those parties (1) that are subject to service of process, (2) in whose absence complete relief cannot be accorded among those already parties and (3) that are necessary to serve the child's best interests. This language incorporates the standard of Rule 1-019(A)(1) NMRA but does not incorporate the rule itself. *See State ex rel. CYFD v. Calvin T.*, 2025-NMSC-052, ¶ 23, 580 P.3d 794.

As noted, the child in the abuse or neglect case is a party to the case. If under the age of fourteen (14), the child is represented by a guardian ad litem, who is an attorney appointed by the court to represent the child's best interest. If the child is fourteen (14) or over, the court appoints an attorney to represent the child in the same way an attorney represents an adult under the traditional client-directed model of representation. The youth's attorney, although he or she may advise differently, follows the instructions of the client. *See* NMSA 1978, § 32A-4-10 [~~(2005)~~], [~~and~~] Rule 10-312 NMRA and Rule 10-313 NMRA.

[As amended by Supreme Court Order No. 08-8300-042 [~~,effective January 15, 2009~~]; as provisionally amended by Supreme Court Order No. 21-8300-007[~~, effective for all cases pending or filed on or after November 12, 2021~~]; as amended by Supreme Court Order No. 22-8300-017[~~, effective for all cases pending or filed on or after December 31, 2022~~]; as amended by Supreme Court Order S-1-RCR-2025-188.]