

1 **10-121. Parties.**

2 A. **Delinquency proceedings.** In proceedings on petitions alleging delinquency, the
3 parties to the action are the child alleged to be delinquent, the state, and any person made a party
4 by the court.

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

8 (1) the [state] department;

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

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

13 (4) any other person made a party by the court.

14 C. **Neglect or abuse and family in need of court-ordered services proceedings;**
15 **permissive joinder.** In proceedings on petitions alleging neglect or abuse or a family in need of
16 court-ordered services, the [state] department may join as parties the non-custodial parent or
17 parents, the guardian or custodian of the child, or any other person permitted by law to intervene
18 in the proceedings.

19 D. **Termination of parental rights; necessary parties.** If a motion to terminate
20 parental rights is filed in an abuse or neglect proceeding and a parent who has a constitutionally
21 protected liberty interest in the child has not been joined as a party in the abuse or neglect
22 proceeding, the department shall name the parent as a party in the motion to terminate parental

1 rights, and ~~[such]~~ the parent shall be served with a summons and a copy of the motion in the
2 manner provided by Rule 10-103 NMRA.

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

5 [As amended, effective July 1, 1995; February 15, 1999; Rule 10-108 NMRA, recompiled and
6 amended as Rule 10-121 NMRA by Supreme Court Order No. 08-8300-042, effective January 15,
7 2009; as provisionally amended by Supreme Court Order No. 21-8300-006, effective November
8 12, 2021.]

9 **Committee commentary.** — Under ~~[Paragraph A of Rule 10-121]~~ Rule 10-
10 212(A) NMRA, the parties in delinquency proceedings are the respondent child, the state, a parent
11 of a child alleged to be delinquent if named ~~[pursuant to]~~ under ~~[Section 32A-2-28 NMSA 1978]~~
12 NMSA 1978, Section 32A-2-28 (1993) and, of course, anyone allowed to intervene under Rule 10-
13 122 NMRA. The children's court attorney is a district attorney who represents the state in these
14 proceedings. ~~[, namely the district attorney or an attorney so designated from his or her office]~~
15 ~~(see [Section 32A-1-6(A) NMSA 1978] NMSA 1978, § 32A-1-6(A) (1995)).~~ ~~[represents the state~~
16 ~~in these proceedings.]~~ An attorney will be appointed for a child not otherwise represented by
17 counsel, as set forth in ~~[Section 32A-2-14 NMSA 1978]~~ NMSA 1978, Section 32A-2-14 (2003)
18 and Rule 10-223 NMRA.

19 ~~[Paragraph B of Rule 10-121]~~ Rule 10-212(B) NMRA defines the parties in abuse and
20 neglect cases. These parties are the ~~[state]~~ department, the ~~[accused]~~ respondent parent, guardian,
21 or custodian, and the child, as well as any other person or entity made a party by the court. ~~[As in~~
22 ~~delinquency cases, the state is represented by the "children's court attorney," but the children's~~
23 ~~court attorney in an abuse or neglect case is an attorney selected by and representing the Children,~~

1 ~~Youth and Families (see Section 32A-1-6(C) NMSA 1978 (1995)), not the district attorney.] The~~

2 children’s court attorney is selected by and represents the department.

3 As noted, the child in the abuse or neglect case is a party to the case. If under the age of

4 fourteen (14), the child is represented by a guardian ad litem, who is an attorney appointed by the

5 court to represent the child’s best interest. If the child is fourteen (14) or over, the court appoints

6 an attorney to represent the child in the same way an attorney represents an adult under the

7 traditional client-directed model of representation. The youth’s attorney, although he or she may

8 advise differently, follows the instructions of the client. *See* [Section 32A-4-10 NMSA 1978]

9 NMSA 1978, § 32A-4-10 (2005) and Rules 10-312 and 10-313 NMRA.

10 [As amended by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as

11 provisionally amended by Supreme Court Order No. 21-8300-007, effective November 12, 2021.]