

10-121. Parties.

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

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.

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.]

Committee commentary. — Under [~~Rule 10-212(A) NMRA~~] Paragraph A of this rule, the parties in delinquency proceedings are the respondent child, the state, a parent of a child alleged to be delinquent if named under NMSA 1978, Section 32A-2-28 (1993), and~~[, of course,]~~ anyone allowed to intervene under Rule 10-122 NMRA. The children's court attorney is a district attorney who represents the state in these proceedings~~[-(see)]~~ See NMSA 1978, § 32A-1-6(A) ~~[(1995)]~~ (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) and Rule 10-223 NMRA.

~~[Rule 10-212(B) NMRA]~~ Paragraph B of this rule defines the parties in abuse and neglect cases. These parties are 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.

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

1 court to represent the child’s best interest. If the child is fourteen (14) or over, the court appoints
2 an attorney to represent the child in the same way an attorney represents an adult under the
3 traditional client-directed model of representation. The youth’s attorney, although he or she may
4 advise differently, follows the instructions of the client. *See* NMSA 1978, § 32A-4-10 (2005) and
5 Rules 10-312 and 10-313 NMRA.

6 [As amended by Supreme Court Order No. 08-8300-042, effective January 15, 2009; as
7 provisionally amended by Supreme Court Order No. 21-8300-007, effective for all cases pending
8 or filed on or after November 12, 2021; as amended by Supreme Court Order No. 22-8300-017,
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