

## NOTICE OF PUBLIC RULEMAKING AND CONTINUED PUBLIC HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that proposes it to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJECTIVE

8.8.3.10 NMAC - COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://zoom.us/j/98975572473>, and follow the instructions indicated on the screen – Meeting ID (access code): 98975572473. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

## AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA CONTÍNUA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:



#### 8.8.3.6 NMAC – OBJECTIVO

#### 8.8.3.10 NMAC –CONFORMIDAD

No se consultó información técnica científica cuando se redactaron estas leyes propuestas.

**Propósito de las leyes propuestas:** El propósito de las leyes es enmendar los requisitos bajo 8.8.3 NMAC para el cumplimiento con las regulaciones federales para solicitantes con requisitos de obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos los empleados potenciales y existentes (contratados a partir del 1 de octubre del 2016) requerirán obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje se ha añadido en 8.8.3.10 NMAC en conformidad para clarificar ambos requisitos; la detección de negligencia y abuso (ahora enlistado bajo el Objetivo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las leyes propuestas pueden ser localizadas al final de este aviso y en la página de internet de CYFD <https://www.newmexicokids.org/> 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de Leyes:** La audiencia pública de leyes que estaba originalmente programada para el martes 17 de marzo del 2020 a la 1:00 p.m. se llevara acabo el día 9 de junio del 2020 a la 1:00 pm. La audiencia se llevara acabo vía internet, correo electrónico, y medios telefónicos a causa concerniente a COVID-19 y en acuerdo a la Orden Ejecutiva 2020-004, de Declaración de Emergencia de Salud Pública y la Orden del 12 de marzo del 2020, Emergencia de Salud Pública con limitación de Grandes Agrupaciones a causa del COVID-19, de la Gobernadora Michelle Lujan Grisham. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado puede asistir a la audiencia y se le proveerá una oportunidad razonable para ofrecer sus comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista s o argumentos, sobre las propuestas durante la audiencia. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas peticiones razonables, pero no puede garantizar acomodar peticiones que no sean recibidas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:** Comentario público por escrito, incluso presentación de datos, puntos de vista o argumentos sobre las leyes propuestas, de cualquier miembro del público interesado pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: “8.8.3 NMAC Public Comment,” o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. El período de comentarios termina con la conclusión de la audiencia pública del 9 de junio del 2020.

Cualquier miembro del público puede asistir a la audiencia por medio del internet o por teléfono y ofrecer durante la audiencia comentarios públicos sobre las leyes propuestas. Para accesar la audiencia por medio telefónico marque el número: 1-346-248-7799. Podra escuchar toda la audiencia y sus comentarios por telefono seran grabados. Para accesar a la audiencia por medio de internet dirijase a: <https://zoom.us/j/98975572473>, y siga las instrucciones indicadas en la pantalla-Meeting ID (numero de identificacion) Access code (codigo de acceso): **98975572473**. Esta sera una audiencia en vivo. Podra proveer su comentario por Chat durante la presentacion en vivo.

#### **Proposed Rules/Reglas Propuestas**

**Explanatory sentence for purposes of this Notice:** In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

#### **8.8.3.6 OBJECTIVE:**

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C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC



will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

**8.8.3.10 COMPLIANCE:**

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**B.** The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where a new applicant resided during the preceding five years. An inter-state criminal history check is not required if a new applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if an applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

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[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

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**POSTPONEMENT OF NOTICE PUBLIC RULE HEARING**  
**Due to Executive Order 2020-004 Issued by Governor Michelle Lujan Grisham**

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJECTIVE

8.8.3.10 NMAC - COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office, 1120 Paseo De Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

**Notice of public rule hearing:** CYFD is postponing the public rule hearing set for Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

## NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJECTIVE

8.8.3.10 NMAC - COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office, 1120 Paseo De Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD - ECS- [PublicComment@state.nm.us](mailto:PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

## AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:

8.8.3.6 NMAC – OBJETIVO

8.8.3.10 NMAC – CONFORMIDAD

No se consultó información científica o técnica cuando se redactaron las propuestas leyes administrativas.



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**Propósito de las propuestas leyes administrativas:** El propósito de las leyes administrativas es enmendar los requisitos bajo 8.8.3 NMAC para cumplir con las regulaciones federales para solicitantes requeridos obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos empleados prospectivos y existentes (contratados a partir del 1 de octubre 2016) serán requeridos obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje añadido en 8.8.3.10 NMAC para clarificar el requisito de ambos la detección de negligencia y abuso (ahora bajo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las propuestas leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD @<https://www.newmexicokids.org/> o se pueden obtener en la Oficina del Departamento de Primera Infancia y Cuidados Educativos: 1120 Paseo De Peralta cuarto 205, Santa Fe, New México, 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de leyes administrativas:** La audiencia pública de leyes administrativas será el martes 17 de marzo del 2020 a la 1:00 p.m. en, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502, en la sala Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado en asistir la audiencia tendrá una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:** Comentarios públicos por escritos, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas leyes administrativas, pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se pueden entregar en mano a Kimberly Brown. El periodo de comentarios termina a la conclusión de la audiencia pública del 17 de marzo del 2020.

### **Proposed Rules/Reglas Propuestas**

**Explanatory sentence for purposes of this Notice:** In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

#### **8.8.3.6 OBJECTIVE:**

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C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019; xx/xx/2019]

#### **8.8.3.10 COMPLIANCE:**

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B. The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the



required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where the applicant resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

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[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019; xx/xx/2020]

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**PROOF OF POSTING**

**2<sup>ND</sup> PUBIC HEARING**

**JUNE 9, 2020 @ 1:00**



## New Mexico Register / Volume XXXI, Issue 9 / May 5, 2020

**NOTICE OF PUBLIC RULEMAKING AND CONTINUED PUBLIC HEARING**

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that proposes it to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

**8.8.3.6 NMAC - OBJECTIVE****8.8.3.10 NMAC - COMPLIANCE**

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

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Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://zoom.us/j/98975572473>, and follow the instructions indicated on the screen -- Meeting ID (access code): **98975572473**. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

**AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA CONTÍNUA**

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:





**8.8.3.6 NMAC – OBJECTIVO****8.8.3.10 NMAC –CONFORMIDAD**

No se consultó información técnica científica cuando se redactaron estas leyes propuestas.

**Propósito de las leyes propuestas:** El propósito de las leyes es enmendar los requisitos bajo 8.8.3 NMAC para el cumplimiento con las regulaciones federales para solicitantes con requisitos de obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos los empleados potenciales y existentes (contratados a partir del 1 de octubre del 2016) requerirán obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje se ha añadido en 8.8.3.10 NMAC en conformidad para clarificar ambos requisitos; la detección de negligencia y abuso (ahora enlistado bajo el Objetivo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las leyes propuestas pueden ser localizadas al final de este aviso y en la página de internet de CYFD <https://www.newmexicokids.org/> 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de Leyes:** La audiencia pública de leyes que estaba originalmente programada para el martes 17 de marzo del 2020 a la 1:00 p.m. se llevara acabo el día 9 de junio del 2020 a la 1:00 pm. La audiencia se llevara acabo vía internet, correo electrónico, y medios telefónicos a causa concerniente a COVID-19 y en acuerdo a la Orden Ejecutiva 2020-004, de Declaración de Emergencia de Salud Pública y la Orden del 12 de marzo del 2020, Emergencia de Salud Pública con limitación de Grandes Agrupaciones a causa del COVID-19, de la Gobernadora Michelle Lujan Grisham. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado puede asistir a la audiencia y se le proveerá una oportunidad razonable para ofrecer sus comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista s o argumentos, sobre las propuestas durante la audiencia. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas peticiones razonables, pero no puede garantizar acomodar peticiones que no sean recibidas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:** Comentario público por escrito, incluso presentación de datos, puntos de vista o argumentos sobre las leyes propuestas, de cualquier miembro del público interesado pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. El período de comentarios termina con la conclusión de la audiencia pública del 9 de junio del 2020. Cualquier miembro del público puede asistir a la audiencia por medio del internet o por teléfono y ofrecer durante la audiencia comentarios públicos sobre las leyes propuestas. Para accesar la audiencia por medio telefónico marque el número: 1-346-248-7799. Podra escuchar toda la audiencia y sus comentarios por telefono seran grabados. Para accesar a la audiencia por medio de internet dirijase a: <https://zoom.us/j/98975572473>, y siga las instrucciones indicadas en la pantalla-Meeting ID (numero de identificacion) Access code (codigo de acceso): **98975572473**. Esta sera una audiencia en vivo. Podra proveer su comentario por Chat durante la presentacion en vivo.

### **Proposed Rules/Reglas Propuestas**

**Explanatory sentence for purposes of this Notice:** In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

**8.8.3.6 OBJECTIVE:**

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C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

**8.8.3.10 COMPLIANCE:**



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B. The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where a new applicant resided during the preceding five years. An inter-state criminal history check is not required if a new applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if an applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

\*\*\*

[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]



# AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO

County of Bernalillo

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NOTICE OF PUBLIC RU  
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Elise Rodriguez, the undersigned, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

05/05/2020



OFFICIAL SEAL  
Susan Ramirez  
NOTARY PUBLIC - STATE OF NEW MEXICO

My Commission Expires: 2/15/2023

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this

5 day of May of 2020

PRICE \$616.87

Statement to come at the end of month.

ACCOUNT NUMBER 1031081

NMAC Public Comment or via first class mail to P.O. Drawer 5160 Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on the proposed rule. To access the hearing by telephone call 1-346-248-7799. You will be able to hear the full hearing and your telephone number will be recorded. To access the hearing via the internet please go to <https://zoom.us/j/572473> and follow the instructions indicated on the screen. Meeting ID: 572473. This will be a live stream of the hearing. You may also provide comment during the live streaming.

PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PUBLICA  
CONTINUA



# Las Cruces Sun News.

PART OF THE USA TODAY NETWORK

## Affidavit of Publication

Ad # 0004171244

This is not an invoice

CHILDREN YOUTH & FAMILIES  
PODRAWER 5160

SANTA FE, NM 87502-5160

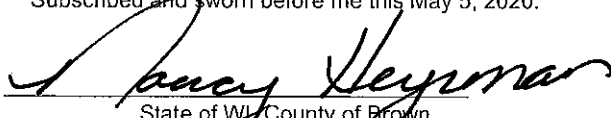
I, a legal clerk of the **Las Cruces Sun News**, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

05/05/2020

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

  
Legal Clerk

Subscribed and sworn before me this May 5, 2020:

  
State of WI, County of Brown  
NOTARY PUBLIC  
5.15.23  
My commission expires

Ad # 0004171244  
PO #: 68443  
# of Affidavits 1

This is not an invoice

NANCY HEYRMAN  
Notary Public  
State of Wisconsin



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**NOTICE OF PUBLIC RULEMAKING AND  
CONTINUED PUBLIC HEARING**

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that proposes it to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

**8.8.3.6 NMAC - OBJECTIVE**

**8.8.3.10 NMAC - COMPLIANCE**

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to [CYFD-ECSPublicComment@state.nm.us](mailto:CYFD-ECSPublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://zoom.us/j/98975572473>, and follow the instructions indicated on the screen - Meeting ID (access code): 98975572473. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

**AVISO DE PROMULGACIÓN DE LEYES ADMINISTRATIVAS Y  
AUDIENCIA PÚBLICA CONTINUA**

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACIÓN DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:

**8.8.3.6 NMAC - OBJETIVO**

**8.8.3.10 NMAC - CONFORMIDAD**

No se consultó información técnica científica cuando se redactaron estas leyes propuestas.

**Propósito de las leyes propuestas:** El propósito de las leyes es enmendar los requisitos bajo 8.8.3 NMAC para el cumplimiento con las regulaciones federales para solicitantes con requisitos de obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos los empleados potenciales y existentes (contratados a partir del 1 de octubre del 2016) requerirán obtener una



comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje se ha añadido en 8.8.3.10 NMAC en conformidad para clarificar ambos requisitos; la detección de negligencia y abuso (ahora enlistado bajo el Objetivo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las leyes propuestas pueden ser localizadas al final de este aviso y en la página de internet de CYFD <https://www.newmexicokids.org/> 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de Leyes:** La audiencia pública de leyes que estaba originalmente programada para el martes 17 de marzo del 2020 a la 1:00 p.m. se llevará a cabo el día 9 de junio del 2020 a la 1:00 pm. La audiencia se llevará a cabo vía internet, correo electrónico, y medios telefónicos a causa concerniente a COVID-19 y en acuerdo a la Orden Ejecutiva 2020-004, de Declaración de Emergencia de Salud Pública y la Orden del 12 de marzo del 2020, Emergencia de Salud Pública con limitación de Grandes Agrupaciones a causa del COVID-19, de la Gobernadora Michelle Lujan Grisham. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado puede asistir a la audiencia y se le proveerá una oportunidad razonable para ofrecer sus comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas durante la audiencia. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas peticiones razonables, pero no puede garantizar acomodar peticiones que no sean recibidas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:** Comentario público por escrito, incluso presentación de datos, puntos de vista o argumentos sobre las leyes propuestas, de cualquier miembro del público interesado pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160. El periodo de comentarios termina con la conclusión de la audiencia pública del 9 de junio del 2020.

Cualquier miembro del público puede asistir a la audiencia por medio del Internet o por teléfono y ofrecer durante la audiencia comentarios públicos sobre las leyes propuestas. Para acceder la audiencia por medio telefónico marque el número: 1-346-248-7799. Podrá escuchar toda la audiencia y sus comentarios por telefono serán grabados. Para acceder a la audiencia por medio de internet dirijase a: <https://zoom.us/j/98975572473>, y siga las instrucciones indicadas en la pantalla-Meeting ID (numero de identificación) Access code (codigo de acceso): 98975572473. Esta será una audiencia en vivo. Podrá proveer su comentario por Chat durante la presentación en vivo.

#0004171244, Sun-News, May 5, 2020



# SANTA FE NEW MEXICAN

Founded 1849

CHILDREN YOUTH AND FAMILY.  
PO BOX 5160  
SANTA FE, NM 87502

ACCOUNT: 2034  
AD NUMBER: 0000277993  
LEGAL NO 87102 P.O. #: 69000-0000068441  
1 TIME(S) 478.04  
AFFIDAVIT 10.00  
TAX 41.18  
TOTAL 529.22

## AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

I, C. Valdez, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 87102 a copy of which is hereto attached was published in said newspaper 1 day(s) between 05/05/2020 and 05/05/2020 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 5th day of May, 2020 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

/s/

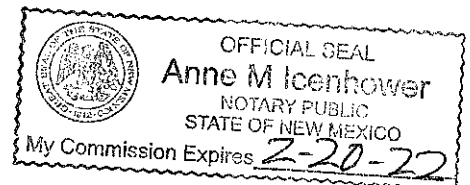
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 5th day of May, 2020

Notary

Commission Expires:

2-20-22





tory check in each state where the applicant resided during the preceding five years.

notice and at CYFD's website at <https://www.newmexicokids.org/> 30 days prior to the Public Hearing.

**Notice of public rule hearing.** The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m. will be held on June 9, 2020, at 1:00 p.m. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor's Executive

Order 2020-004 Declaration of Public Health Emergency and the March 22, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing.

Written public comment, including presentation of data, views or arguments on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment**

Written public comment, including presentation of data, views or arguments about the proposed rules, from any interested member of the public may be submitted via email to: [CYPD-ECS-PublicComment@state.nm.us](mailto:CYPD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa

Fe, New Mexico 87502-5160. The hearing will be a live stream of the hearing. You may also provide comment via chat during the live streaming.

## AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PUBLICA CONTINUA

El Departamento de Niños, Jóvenes y Familias de Nuevo México, por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA, 1978, y 1.24.2.1.1 NMAC, que propone adoptar enmendadas a las siguientes reglas con respecto a las LEYES ADMINISTRATIVAS DEL DEPARTAMENTO DE NIÑOS, JOVENES Y FAMILIAS.

**8.8.3.6 NMAC: OBJETIVO**  
**8.8.3.10 NMAC: CONFORMIDAD**

No se consultó información técnica científica cuando se redactaron estas leyes propuestas.

**Propósito de las leyes propuestas.** El propósito de las leyes es enmendar los requisitos bajo 8.8.3 NMAC para el cumplimiento con las reglas administrativas federales para solicitantes con requisitos de obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos los solicitantes y exisientes (contratados a partir del 1 de octubre del 2016) requerirán obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje se ha añadido en 8.8.3.10 NMAC en conformidad para clarificar ambos requisitos: la detección de negligencia y abuso (ahora enlistado bajo el Objetivo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos

de la Gobernadora Michelle Lujan Grisham. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionamiento de audiencias y será grabada. Cualquier miembro del público interesado puede asistir a la audiencia y se le proveerá una copia de la grabación para sus comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos sobre las propuestas durante la audiencia. Personas con discapacidades que necesiten cualquier forma de asistencia para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas las necesidades razonables, pero no puede garantizar acomodar peticiones que no sean recibidas por lo menos diez días antes de la fecha programada para la audiencia.

## Aviso de aceptación de comentario público por escrito

Comentario público por escrito, incluso presentación de datos, puntos de vista o argumentos sobre las leyes propuestas de cualquier miembro del público interesado pueden ser enviados a través de correo electrónico a: [CYPD-ECS-PublicComment@state.nm.us](mailto:CYPD-ECS-PublicComment@state.nm.us), especificando en la línea de asunto: "8.8.3 NMAC Public Comment" o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. El periodo de comentarios termina con la conclusión de la audiencia pública del 9 de junio del 2020.

Cualquier miembro del público puede asistir a la audiencia por medio del internet o por teléfono y ofrecer durante la audiencia comentarios públicos.

LEGAL # 87102

## NOTICE OF PUBLIC RULEMAKING AND CONTINUED PUBLIC HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA, 1978, and 1.24.2.1.1 NMAC that proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

**8.8.3.6 NMAC: OBJECTIVE**  
**8.8.3.10 NMAC: COMPLIANCE**

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules.** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply

Continued...

Continued...

Continued...

Continued...





## Gonzales, Debra A., CYFD

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**From:** Rachel Nowak <rachelmitchell@unm.edu>  
**Sent:** Monday, May 4, 2020 4:33 PM  
**To:** Gonzales, Debra A., CYFD  
**Subject:** [EXT] FW: Post Notice of Public Rule Making and Continued Public Hearing

Found it. 😊

Rachel Eryn Nowak  
Program Manager  
NewMexicoKids Training and Resource Hub  
Early Childhood Services Center  
University of New Mexico  
1634 University Blvd. NE  
Albuquerque, NM 87102  
1-800-691-9067 Support Line  
(505) 252-8744 Cell Phone  
(505) 277-2570 Fax  
www.newmexicokids.org



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**From:** Rachel Nowak <rachelmitchell@unm.edu>  
**Sent:** Tuesday, April 28, 2020 5:40:22 PM  
**To:** Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>; Garrett Thomas Massey <garrettmassey@unm.edu>; Malisa Kasparian <mkaspari@unm.edu>; Kathleen Carroll <carrollk@unm.edu>  
**Cc:** CYFD-ECS-PublicComment <CYFD-ECS-PublicComment@state.nm.us>; Vigil, Raymond P., CYFD <raymond.vigil@state.nm.us>; MontanoWhite, Katrina, CYFD <Katrina.MontanoWhit@state.nm.us>  
**Subject:** RE: Post Notice of Public Rule Making and Continued Public Hearing

Hi Debra,

We have posted the Notice on the Announcements Page for 8-8-3. Here is the link to that:  
<https://www.newmexicokids.org/proposed-regulation-changes-to-883-nmac-background-checks/>  
Please note that we have moved announcements to be under the FAQs on our main website:  
<https://www.newmexicokids.org/announcements/>

We also posted it under News and Announcements (bottom right) on the main dedicated COVID page:  
<https://www.newmexicokids.org/coronavirus/news.php>

Please let me know if we need to add or adjust anything.

Hope you and yours are well.





Confidentiality Notice: This e-mail, including all attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information as defined under FERPA. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

**From:** Gonzales, Debra A., CYFD <[debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us)>

**Sent:** Tuesday, April 28, 2020 12:55 PM

**To:** Rachel Nowak <[rachelmitchell@unm.edu](mailto:rachelmitchell@unm.edu)>; Garrett Thomas Massey <[garrettmassey@unm.edu](mailto:garrettmassey@unm.edu)>; Malisa Kasparian <[mkaspari@unm.edu](mailto:mkaspari@unm.edu)>; Kathleen Carroll <[carrollk@unm.edu](mailto:carrollk@unm.edu)>

**Cc:** CYFD-ECS-PublicComment <[CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us)>; Vigil, Raymond P., CYFD <[raymond.vigil@state.nm.us](mailto:raymond.vigil@state.nm.us)>; MontanoWhite, Katrina, CYFD <[Katrina.MontanoWhit@state.nm.us](mailto:Katrina.MontanoWhit@state.nm.us)>

**Subject:** Post Notice of Public Rule Making and Continued Public Hearing

**UNM-IT Warning:**

Hello Rachel,

Hope you are doing well☺

Attached is a "NOTICE OF PUBLIC RULEMAKING AND CONTINUED PUBLIC HEARING" which needs to be posted on the New Mexico Kids website by May 5th. We will use the same format from last hearing. We would like the notice posted with the original notice and the postponement. We will need to post public comments along with the rule record.

I know that the NM Kids webpage has the COVID-19 information on the cover - which is the priority. Not sure where we post of this Notice?

Thank you very much!

Deb

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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## Gonzales, Debra A., CYFD

---

**From:** Gonzales, Debra A., CYFD  
**Sent:** Wednesday, April 29, 2020 1:41 PM  
**To:** Sweeney, Sylvia, CYFD  
**Cc:** Kliphuis, Tracy L, CYFD; Ashleigh Smith (Ashleigh.Smith@state.nm.us)  
**Subject:** RE: Post Notice of Public Rule Making and Continued Public Hearing

Tracking:	Recipient	Read
	Sweeney, Sylvia, CYFD	
	Kliphuis, Tracy L, CYFD	Read: 4/29/2020 1:53 PM
	Ashleigh Smith (Ashleigh.Smith@state.nm.us)	Read: 4/29/2020 1:47 PM

Thank you so much!

---

**From:** Sweeney, Sylvia, CYFD  
**Sent:** Wednesday, April 29, 2020 1:04 PM  
**To:** Gonzales, Debra A., CYFD  
**Subject:** RE: Post Notice of Public Rule Making and Continued Public Hearing

Sorry I meant to include the link:

<https://cyfd.org/child-care-services>

---

**From:** Sweeney, Sylvia, CYFD  
**Sent:** Wednesday, April 29, 2020 1:04 PM  
**To:** Gonzales, Debra A., CYFD <[debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us)>  
**Subject:** RE: Post Notice of Public Rule Making and Continued Public Hearing

Thank you for confirming. This is updated, but please review and let me know if there are any other adjustments.

Stay healthy and safe!

Best,  
Sylvia

---

**From:** Gonzales, Debra A., CYFD  
**Sent:** Wednesday, April 29, 2020 12:59 PM  
**To:** Sweeney, Sylvia, CYFD <[Sylvia.Sweeney@state.nm.us](mailto:Sylvia.Sweeney@state.nm.us)>  
**Subject:** RE: Post Notice of Public Rule Making and Continued Public Hearing

Yes! Thank you☺

---

**From:** Sweeney, Sylvia, CYFD  
**Sent:** Wednesday, April 29, 2020 12:56 PM



To: Gonzales, Debra A., CYFD

Subject: RE: Post Notice of Public Rule Making and Continued Public Hearing

Hi Debra, hope you are doing well. I am checking, do you want to remove the "postponement" message?

### Child Care Services

The Child Care Services Bureau (CCSB) administers the Child Care Assistance, Child Care Licensing and Registered Child Care Home programs. In collaboration with CYFD's Office of Child Development and Family Nutrition Bureau, the Child Care Services Bureau plans and coordinates quality child care services (including training, technical assistance, health and safety and monitoring) and works to build child care capacity statewide. More information on these programs can be found at [www.newmexicokids.org](http://www.newmexicokids.org).

#### NOTICE OF PUBLIC RULE HEARING:

**POSTPONEMENT** of Notice Public Rule Hearing: Due to Executive Order 2020-004 issued by Governor Michelle Lujan Grisham, Read the postponement [here](#).

**UPDATE: Emergency Rule Amendments to 8.15.2 NMAC**  
- Child Care Assistance Requirements for Child Care Assistance Programs for Clients and Child Care Providers.  
Effective March 16, 2020.

Children, Youth and Families Department (CYFD) is proposing regulation changes to **8.8.3 NMAC - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION**. Click the link to read the announcement:  
<https://www.newmexicokids.org/>

From: Gonzales, Debra A., CYFD

Sent: Tuesday, April 28, 2020 1:03 PM

To: Sweeney, Sylvia, CYFD <[Sylvia.Sweeney@state.nm.us](mailto:Sylvia.Sweeney@state.nm.us)>

Cc: CYFD-ECS-PublicComment <[CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us)>; Vigil, Raymond P., CYFD <[raymond.vigil@state.nm.us](mailto:raymond.vigil@state.nm.us)>; MontanoWhite, Katrina, CYFD <[Katrina.MontanoWhit@state.nm.us](mailto:Katrina.MontanoWhit@state.nm.us)>

Subject: FW: Post Notice of Public Rule Making and Continued Public Hearing

Please place the below information on the Child Care Services page as listed below.

#### NOTICE OF PUBLIC RULEMAKING AND CONTINUED PUBLIC HEARING

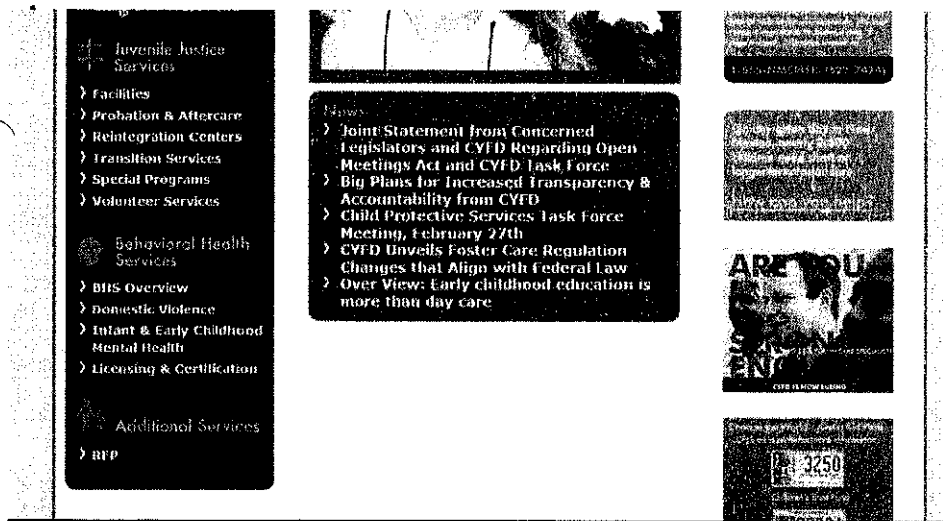
Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.8.3 NMAC - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION.

A public rule hearing will be held on June 9, 2020 at 1:00 p.m. via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19.

Click link and send to: <https://www.newmexicokids.org/>







We will need this information post by May 5, 2020.

Please let us know if you have any questions or concerns.

Thank you very much!!!

Deb



New Mexico Children,  
Youth & Families Department

## Early Childhood Services Information Governance Program, Policy, Audit and Reports

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## Rule Hearing Search

Hearing Date:

All

Comments

Deadline Date:

All

Agency:

Children Youth &amp; Families Department

Search

Total Results: 9 - Page #1

View	Agency	Public Hearing	Purpose	Hearing Date	Comments Due Date
<a href="#">View Details</a>	Children Youth & Families Department	8.15.2 NMAC SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS	Proposing amendments to 8.15.2 NMAC.	7/14/2020	7/14/2020 3:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.8.3 NMAC CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND	The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC.	6/9/2020	6/9/2020 3:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.26.4 NMAC Licensing Standards for Foster and Adoptive Care	Proposing changes to Licensing Standards for Foster and Adoptive Homes	12/4/2019	1/10/2020 5:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	PUBLIC RULE HEARING 8.15.2 NMAC-Child Care Assistance Programs - Continuing	Proposing regulation changes to 8.15.2 NMAC - Requirements for Child Care Assistance Programs for Clients and Child Care Providers	8/30/2019	8/30/2019 2:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.8.3 NMAC, BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION	Proposing regulation changes to 8.8.3 NMAC - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION	8/29/2019	8/29/2019 2:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.17.2 NMAC, NON-LICENSED CHILD CARE	Proposing regulation changes to 8.17.2 NMAC - NON-LICENSED CHILD CARE - REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES	8/29/2019	8/29/2019 2:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.16.2 NMAC, CHILD CARE LICENSING	Proposing regulation changes to 8.16.2 NMAC - CHILD CARE LICENSING - CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS	8/29/2019	8/29/2019 2:00 PM
<a href="#">View Details</a>	Children Youth & Families Department	8.14.14 NMAC, New Mexico Juvenile Detention Standards	update Detention Standards	12/12/2018	12/12/2018 5:00 PM



View	Agency	Public Hearing	Purpose	Hearing Date	Comments Due Date
<a href="#">View Details</a>	Children Youth & Families Department	8.15.2 NMAC EMERGENCY RULE AMENDMENT	These amendments are emergency rule amendments to the child care assistance requirements under 8.15.2 NMAC.		

[First](#) [Last](#)

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## Rule Hearing Search

Hearing Date:	Comments	Agency:
All <input type="button" value="v"/>	Deadline Date:	Children Youth & Families Department <input type="button" value="v"/>
	All <input type="button" value="v"/>	

[Return to Search Results](#)
**Proposed Rule Name:**

8.8.3 NMAC CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS  
GOVERNING BACKGROUND

**Agency:**

Children Youth & Families Department

**Purpose:**

The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

**Summary:**

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978

**Administrative Codes:**

<http://www.srca.nm.gov/parts/title08/08.008.0003.html>

NMAC 8.8.3.6

NMAC 8.8.3.10

**Rule Complete Copy :**

Copies of the rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org> (<https://www.newmexicokids.org/>)

**Corrections:**

[Click Here to access Rule Corrections \(https://www.newmexicokids.org/\)](https://www.newmexicokids.org/)

**Rule Explanatory Statement:**

[Click Here to access the Rule Explanatory Statement \(https://www.newmexicokids.org/\)](https://www.newmexicokids.org/)

(<https://www.newmexicokids.org/>)

**Related New Mexico Register Publications:**

[Click Here to access Related New Mexico Publications](http://164.64.110.134/nmac/nmregister/xxx/CYFDnotice_xxxi09.html)

([http://164.64.110.134/nmac/nmregister/xxx/CYFDnotice\\_xxxi09.html](http://164.64.110.134/nmac/nmregister/xxx/CYFDnotice_xxxi09.html))

For any additional information or questions concerning this rule making or posting please contact:

Kimberly Brown [cyfd-ecs-publiccomment@state.nm.us](mailto:cyfd-ecs-publiccomment@state.nm.us) (505) 231-5820

[cyfd-ecs-publiccomment@state.nm.us](mailto:cyfd-ecs-publiccomment@state.nm.us)

(505) 231-5820

**Last Updated Date**

5/5/2020 10:20 AM

**How to submit Comments:**

Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) (<mailto:CYFD-ECS-PublicComment@state.nm.us>) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

**When are comments due:**

The deadline for submitting comments has changed. The new deadline is shown below

6/9/2020 3:00 PM

**Hearing Date:**

The public rule hearing date/time have changed. The new date/time are shown below

6/9/2020 1:00 PM

**Public Hearing Location:**

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://zoom.us/j/98975572473> (<https://zoom.us/j/98975572473>), and follow the instructions indicated on the screen – Meeting ID (access code): 98975572473. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming. 6/9/2020 (1:00 PM -3:00 PM )

**How to participate:**

Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rule during the hearing but because this an emergency rule change a hearing is not scheduled.

① If the document is not visible on the previewer, please download the file.

File	File Name	File Type	Description
<a href="#">View Document</a> ( <a href="https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M000001i0gg/SKF13zfxlXRX2GyfPqvnD3M2NMzYMNdtYtn0gOI5mg">https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M000001i0gg/SKF13zfxlXRX2GyfPqvnD3M2NMzYMNdtYtn0gOI5mg</a> )	CYFD_8	PDF	8 3notice
<a href="#">View Document</a> ( <a href="https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M000001idLh/cv4_HQB8cr1JT0wj_cCz4EIz52towRuyE7kiIP3jnwI">https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M000001idLh/cv4_HQB8cr1JT0wj_cCz4EIz52towRuyE7kiIP3jnwI</a> )	CYFD_8	PDF	8
			3notice_3
			-
			Postpone





File	File Name	File Type	Description
<a href="#">View Document</a>	CYFD_8	PDF	
<a href="https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M0000016kij/VUBUGAYxrp2EPHCxq9XgDFwluVLtatMpq3ETSOP1.rk">https://statenm.my.salesforce.com/sfc/p/4100000137C2/a/2M0000016kij/VUBUGAYxrp2EPHCxq9XgDFwluVLtatMpq3ETSOP1.rk</a>	8		
	3notice_2		

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## Gonzales, Debra A., CYFD

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**From:** Gonzales, Debra A., CYFD  
**Sent:** Tuesday, April 28, 2020 1:09 PM  
**To:** Brown, Kimberly, CYFD; Steward, Patricia A., CYFD  
**Cc:** CYFD-ECS-PublicComment; Raymond Vigil (raymond.vigil@state.nm.us)  
**Subject:** FW: Post Notice of Public Rule Making and Continued Public Hearing  
**Attachments:** CYFD\_8 8 3notice\_2.pdf

Tracking:	Recipient	Read
	Brown, Kimberly, CYFD	
	Steward, Patricia A., CYFD	Read: 4/28/2020 2:29 PM
	CYFD-ECS-PublicComment	
	Raymond Vigil (raymond.vigil@state.nm.us)	
	Smith, Ashleigh, CYFD	Read: 4/28/2020 1:20 PM
	Gonzales, Debra A., CYFD	Read: 4/28/2020 1:25 PM
	Kliphuis, Tracy L, CYFD	Read: 4/28/2020 1:38 PM
	RebolledoRea, Alejandra, CYFD	Deleted: 5/11/2020 3:30 PM

Can you please ask all Child Care offices to post and make available the attached Notice?

We will need this done by May 5, 2020.

Please let us know if you have any questions.

Thank you very much!

Debra



**CHILDREN, YOUTH & FAMILIES DEPARTMENT  
EARLY CHILDHOOD SERVICES**

Post Office Drawer 5160  
Santa Fe, NM 87502-5160

D. Gonzalez S

Attn: Maria Griego

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> 30 days prior to the Public Hearing

**Notice of public rule hearing:** The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-346-248-7799. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to <https://zoom.us/j/98975572473>, and follow the instructions indicated on the screen - Meeting ID (access code): 98975572473. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

**AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA CONTINUA**

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978;



## Gonzales, Debra A., CYFD

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**From:** Ortiz, Antoinette M, CYFD  
**Sent:** Monday, May 4, 2020 2:09 PM  
**Subject:** Public Rulemaking and Continues Public Hearing - 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification  
**Attachments:** CYFD\_8 8 3notice\_2.pdf

Dear Early Childhood Partner and Parents:

Children, Youth and Families Department (CYFD) will hold a Public Rulemaking and Continued Public Hearing on proposed regulation changes to:

- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification

The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm.

Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

Attached is the Notice of Public Rulemaking and Continued Public Hearing.

**PLEASE BE ADVISED THAT THESE PROPOSED REGULATION CHANGES DO NOT AFFECT CURRENT ELIGIBILITY TO FAMILIES.**

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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## Gonzales, Debra A., CYFD

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**From:** Gonzales, Debra A., CYFD  
**Sent:** Monday, May 4, 2020 1:44 PM  
**To:** CYFD-ECS-PublicComment  
**Subject:** Public Rulemaking and Continues Public Hearing - • 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification  
**Attachments:** CYFD\_8 8 3notice\_2.pdf

Children, Youth and Families Department (CYFD) will hold a Public Rulemaking and Continued Public Hearing on proposed regulation changes to:

- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification

The public rule hearing that was originally scheduled for March 17, 2020, at 1:00 p.m., will be held on June 9, 2020 at 1:00 pm.

Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. The comment period ends at the conclusion of the public hearing on June 9, 2020.

Attached is the Notice of Public Rulemaking and Continued Public Hearing.

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820  
Mobile: 505.231.5820  
Fax: 505.476.0143  
Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)  
Web: [www.cyfd.org](http://www.cyfd.org)



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# **Proof of Postings**

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## Gonzales, Debra A., CYFD

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**From:** Ortiz, Matt, SRCA  
**Sent:** Thursday, February 13, 2020 2:59 PM  
**To:** Gonzales, Debra A., CYFD  
**Cc:** Herrera, Justin, SRCA  
**Subject:** N.M. Register invoice, affidavit of publication  
**Attachments:** fy20-4711-issue3.pdf

To Whom It May Concern, (hi Deb!)

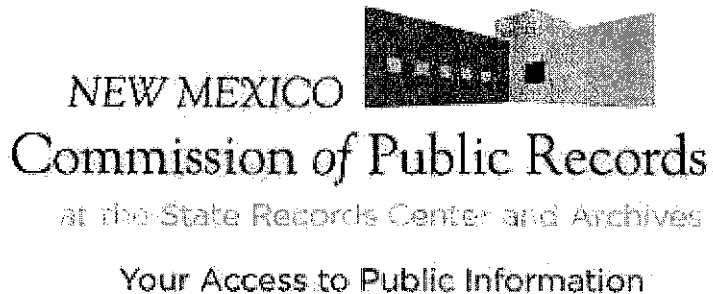
Attached is a pdf copy of your agency's invoice and *Affidavit of Publication* for publishing in the NEW MEXICO REGISTER, Volume XXXI, Issue 3.

If your agency needs the original *Affidavit of Publication*, please contact Justin Herrera at 476-7902 or at [Justin.Herrera@state.nm.us](mailto:Justin.Herrera@state.nm.us) and he can deliver the original to your attention.

Thank you for your business!

matt

**Matthew Ortiz**  
Administrative Law Division Director  
[matt.ortiz@state.nm.us](mailto:matt.ortiz@state.nm.us)  
505-476-7941



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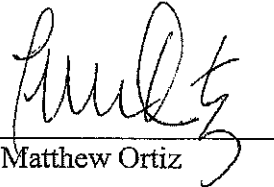


NEW MEXICO  
State Records Center and Archives  
COMMISSION OF PUBLIC RECORDS  
Your Access to Public Information

**Affidavit of Publication in New Mexico Register**

I, Matthew Ortiz, certify that the agency noted on Invoice # 4711 has published legal notice of rulemaking or rules in the NEW MEXICO REGISTER, VOLUME XXXI, that payment has been assessed for said legal notice of rulemaking or rules, which appears on the publication date and in the issue number noted on Invoice # 4711, and that Invoice # 4711 has been sent electronically to the person(s) listed on the *Billing Information Sheet* provided by the agency.


Affiant:

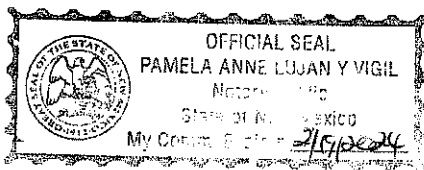
  
Matthew Ortiz

Subscribed, sworn and acknowledged before me this 13<sup>th</sup> day of February, 2020.

Notary Public:

My Commission Expires:

  
2/19/2024



1205 Camino Carlos Rey | Santa Fe, NM 87507 | [nmcpr.state.nm.us](http://nmcpr.state.nm.us)

Hon. Hector Balderas  
Attorney General

Hon. Brian S. Colón  
State Auditor

Hon. Maggie Toulouse Oliver  
Secretary of State

Debra García y Griego  
Department of Cultural Affairs

Kenneth Ortiz  
General Services Department

Daniel Cordova  
Interim Director, NM State Law Library





## New Mexico Register / Volume XXXI, Issue 3 / February 11, 2020

## NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJECTIVE

8.8.3.10 NMAC - COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office, 1120 Paseo De Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line "8.8.3 NMAC Public Comment," via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

### AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACION DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:

8.8.3.6 NMAC - OBJETIVO

8.8.3.10 NMAC - CONFORMIDAD

No se consultó información científica o técnica cuando se redactaron las propuestas leyes administrativas.

**Propósito de las propuestas leyes administrativas:** El propósito de las leyes administrativas es enmendar los requisitos bajo 8.8.3 NMAC para cumplir con las regulaciones federales para solicitantes requeridos obtener la revisión de antecedentes y huellas conforme 8.16.2 NMAC y 8.17.2 NMAC. Todos empleados prospectivos y existentes (contratados a partir del 1 de octubre 2016) serán requeridos obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje añadido en 8.8.3.10 NMAC para clarificar el requisito de ambos la detección de



negligencia y abuso (ahora bajo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las propuestas leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD

@<https://www.newmexicokids.org/> o se pueden obtener en la Oficina del Departamento de Primera Infancia y Cuidados Educativos:

100 Paseo De Peralta cuarto 205, Santa Fe, New México, 30 días antes de la Audiencia Pública.

**Aviso de Audiencia Pública de leyes administrativas:** La audiencia pública de leyes administrativas será el martes 17 de marzo del 2020 a la 1:00 p.m. en, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502, en la sala Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado en asistir la audiencia tendrá una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibas por lo menos diez días antes de la fecha programada para la audiencia.

**Aviso de aceptación de comentario público por escrito:** Comentarios públicos por escritos, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas leyes administrativas, pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se pueden entregar en mano a Kimberly Brown. El período de comentarios termina a la conclusión de la audiencia pública del 17 de marzo del 2020.

### **Proposed Rules/Reglas Propuestas**

**Explanatory sentence for purposes of this Notice:** In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

#### **8.8.3.6 OBJECTIVE:**

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Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]

#### **8.8.3.10 COMPLIANCE:**

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**B.** The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where the applicant resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

\*

[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019, xx/xx/2020]



# SANTA FE NEW MEXICAN

Founded 1849

CHILDREN YOUTH AND FAMILY,  
PO BOX 5160  
SANTA FE, NM 87502

ACCOUNT:	2034	
AD NUMBER:	0000273201	
LEGAL NO:	86752	P.O. #: 69000-0000067803
1 TIME(S)	544.00	
AFFIDAVIT	10.00	
TAX	46.74	
TOTAL	600.74	

## AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

I, L. Harding, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 86752 a copy of which is hereto attached was published in said newspaper 1 day(s) between 02/11/2020 and 02/11/2020 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 11th day of February, 2020 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

/s/ L. Harding  
LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 11th day of February, 2020

Notary \_\_\_\_\_

Commission Expires: \_\_\_\_\_



LEGAL # 86752

# NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-2-52 NMSA 1978 and 14-2-75.1 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978.

## 8.8.3.6 NMAC OBJECTIVE 8.8.3.10 NMAC COMPLIANCE

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rules is to amend the background check requirements under 8.8.3.6 NMAC to comply with federal regulations for applicant criminal history check pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff hired after October 1, 2016 will be required to obtain an inter-state criminal history check in states where they resided during the preceding five years. In addition, the proposed amendments to 8.8.3.6 NMAC compliance to obtain the required means both a screen of abuse and neglect currently listed under 8.8.3.6 NMAC on juvenile and an inter-state criminal history check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office, 1120 Paseo de Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502.

Public Comment: via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

## AVISO DE PROMULGACION DE LEYES Y REGLAS ADMINISTRATIVAS Y AUDIENCIA PUBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México, por este medio da aviso como se requiere bajo la Sección 14-2-52 NMSA 1978 y 14-2-75.1 NMAC que propone adoptar enmiendas a las siguientes reglas con respecto a P.R.O.V.I.S.O.N.E.S. GENERALES DEL DEPARTAMENTO DE NIÑOS, JOVENES Y FAMILIAS GOVERNANDO LA REVISION DE ANTECEDENTES Y HUELLAS VERIFICACION DE HISTORIA EMPLEO según lo autorizado por la Sección 9-2A-7 NMSA 1978.

## 8.8.3.6 NMAC OBJETIVO 8.8.3.10 NMAC CONFORMIDAD

No se consultó información científica o técnica cuando se redactaron las propuestas y leyes administrativas.

Propósito de las propuestas y leyes administrativas: El propósito de las leyes administrativas es enmendar los requisitos bajo 8.8.3.6 NMAC para cumplir con las regulaciones federales para solicitantes requeridos obtener la revisión de antecedentes y huellas conforme a 8.16.2 NMAC y 8.17.2 NMAC. Todos empleados prospectivos y existentes (contratados a partir del 1 de octubre 2016) serán requeridos obtener una comprobación de datos del repositorio penal Interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje añadido en 8.8.3.10 NMAC para clarificar el requisito de ambos la detección de negligencia y abuso (ahora bajo 8.8.3.6 NMAC).

la audiencia tendrá una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos sobre las propuestas. Personas con discapacidades que necesitan cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales debragonzales@statelibrary.nm.gov o CyFD para todas los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibidas al menos diez días antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escrito, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado sobre las propuestas y leyes administrativas pueden ser enviados a través de correo electrónico a CYFD-ECS PublicComment@statelibrary.nm.us especificando en la línea de asunto: "8.8.3 NMAC Public Comment" o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se pueden entregar en mano a Kimberly Brown. El período de comentarios termina a la conclusión de la audiencia pública del 17 de marzo del 2020.

## Propuestas de Leyes y Reglas

Explanatory sentence for purposes of this Notice: In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

## 8.8.3.6 OBJECTIVE:

C. Abuse and neglect screens or databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in set-

ters or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where the applicant resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016 must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

8.8.3.10 NMAC - Rp.  
8.8.3.10 NMAC  
10/1/2016



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# Las Cruces Sun News.

PART OF THE USA TODAY NETWORK

## Affidavit of Publication

Ad # 0004022057

This is not an invoice

CHILDREN YOUTH & FAMILIES  
PODRAWER 5160

SANTA FE, NM 87502-5160


I, a legal clerk of the Las Cruces Sun News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

February 11, 2020

Despondent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

  
Legal Clerk

Subscribed and sworn before me this February 11, 2020:

  
State of WI, County of Brown  
NOTARY PUBLIC

8-25-23  
My commission expires

SHELLY HORA  
Notary Public  
State of Wisconsin

Ad # 0004022057

PO #:  
# of Affidavits 1

This is not an invoice

THE STATE OF NEW YORK  
IN SENATE  
January 10, 1912

REPORT OF THE  
COMMISSIONER OF THE LAND OFFICE

FOR THE YEAR 1911

ALBANY:  
J. B. LIPPINCOTT & CO.,  
PRINTERS, 1912.

THE STATE OF NEW YORK  
IN SENATE  
January 10, 1912

REPORT OF THE  
COMMISSIONER OF THE LAND OFFICE  
FOR THE YEAR 1911

THE STATE OF NEW YORK  
IN SENATE  
January 10, 1912

ALBANY:  
J. B. LIPPINCOTT & CO.,  
PRINTERS, 1912.

THE STATE OF NEW YORK  
IN SENATE  
January 10, 1912

**NOTICE OF RULEMAKING AND PUBLIC RULE HEARING**

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978:

**8.8.3.6 NMAC - OBJECTIVE**

**8.8.3.10 NMAC - COMPLIANCE**

No technical scientific information was consulted in drafting these proposed rules.

**Purpose of proposed rules:** The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from the Early Childhood Education Care Department's Office, 1120 Paseo De Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

**Notice of public rule hearing:** The public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

**Notice of acceptance of written public comment:** Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to CYFD - ECS- [PublicComment@state.nm.us](mailto:PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160 or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.

**AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PUBLICA**

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como se requiere bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a PROVISIONES GENERALES DEL DEPARTAMENTO DE NIÑOS, JÓVENES Y FAMILIAS, GOVERNANDO LA REVISIÓN DE ANTECEDENTES Y HUELLAS Y VERIFICACIÓN DE HISTORIAL DE EMPLEO según lo autorizado por la sección 9-2A-7 NMSA 1978:



#### 8.8.3.6 NMAC – OBJECTIVO

#### 8.8.3.10 NMAC – CONFORMIDAD

No se consultó información científica o técnica cuando se redactaron las propuestas leyes administrativas.

Propósito de las propuestas leyes administrativas: El propósito de las leyes administrativas es enmendar los requisitos bajo 8.8.3 NMAC para cumplir con las regulaciones federales para solicitantes requeridos obtener la revisión de antecedentes y huellas conforme a 8.16.2NMAC y 8.17.2 NMAC. Todos empleados prospectivos y existentes (contratados a partir del 1 de octubre 2016) serán requeridos obtener una comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años. Adicionalmente, lenguaje añadido en 8.8.3.10 NMAC para clarificar el requisito de ambos la detección de negligencia y abuso (ahora bajo 8.8.3.6 NMAC) y la comprobación de datos del repositorio penal interestatal en cada estado donde el solicitante ha vivido durante los últimos cinco años.

Copias de las propuestas leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD @<https://www.newmexicokids.org/> o se pueden obtener en la Oficina del Departamento de Primera Infancia y Cuidados Educativos: 1120 Paseo De Peralta cuarto 205, Santa Fe, New México, 30 días antes de la Audiencia Pública.

Aviso de Audiencia Pública de leyes administrativas: La audiencia pública de leyes administrativas será el martes 17 de marzo del 2020 a la 1:00 p.m. en, 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502, en la sala Apodaca Hall, 1120 Paseo De Peralta, Santa Fe, New México 87502. La audiencia pública se llevará a cabo de manera justa y equitativa por un representante de la agencia de CYFD o el funcionario de audiencias y será grabada. Cualquier miembro del público interesado en asistir la audiencia tendrá una oportunidad razonable para ofrecer comentarios al público, oralmente o por escrito, incluso una presentación de datos, puntos de vista s o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, [debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us). CYFD hará todos los esfuerzos posibles para acomodar todas solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibas por lo menos diez días antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escritos, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas leyes administrativas, pueden ser enviados a través de correo electrónico a: [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us), especificando en la línea de Asunto: "8.8.3 NMAC Public Comment," o por correo de primera clase a Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, o se pueden entregar en mano a Kimberly Brown. El período de comentarios termina a la conclusión de la audiencia pública del 17 de marzo del 2020.

#### Proposed Rules/Reglas Propuestas

Explanatory sentence for purposes of this Notice: In 8.8.3.6 NMAC, Subsections A and B were not published as there are no changes. In 8.8.3.10 NMAC, Subsections A, C and D were not published as there are no changes.

#### 8.8.3.6 OBJECTIVE:

C. Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background

checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019; xx/xx/2019]

8.8.3.10

**COMPLIANCE:**

B. The licensee is required to:

(1) submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

(2) Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

(a) a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

(b) an inter-state criminal history check in each state where the applicant resided

during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

Pub#4022057

Run: Feb. 11, 2020

# State of New Mexico

## CHILDREN, YOUTH and FAMILIES DEPARTMENT

MICHELLE LUJAN GRISHAM  
GOVERNOR

HOWIE MORALES  
LIEUTENANT GOVERNOR



BRIAN BLALOCK  
CABINET SECRETARY

TERRY L. LOCKE  
DEPUTY CABINET SECRETARY

February 11, 2020

Provider Name  
Address  
City, State and Zip

Dear Child Care Provider:

Please be advised that the Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.8.3 NMAC – Children, Youth and Families General Provisions Governing Background Checks and Employment History Verification.

The significant proposed changes to the rules are to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the Federal Bureau of Investigation's National Fingerprint File (NFF) (list of participating NFF states attached). In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

This letter serves as notice that CYFD will hold a formal public hearing on Tuesday, March 17, 2020, at 1:00 p.m. in Apodaca Hall of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87502. The purpose of this public hearing is to receive public comment regarding proposed changes to 8.8.3 NMAC – Children, Youth and Families General Provisions Governing Background Checks and Employment History Verification. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing.

Copies of the proposed rules may be found at CYFD's website at <https://www.newmexicokids.org/> or may be obtained from 1120 Paseo De Peralta, Santa Fe, New Mexico, 30 days prior to the Public Hearing.

Written public comment, including presentation of data, views, or arguments on the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on March 17, 2020.

**PLEASE BE ADVISED THAT THESE PROPOSED REGULATION CHANGES DO NOT AFFECT CURRENT ELIGIBILITY TO FAMILIES.** If you have any questions, please call Kimberly Brown at 505-841-4821 or 1-800-832-1321.

Sincerely,

Alejandra Rebolledo Rea, Acting Division Director  
Early Childhood Education and Care Department / Children, Youth and Families Department





# State of New Mexico

## CHILDREN, YOUTH and FAMILIES DEPARTMENT

MICHELLE LUJAN GRISHAM  
GOVERNOR

HOWIE MORALES  
LIEUTENANT GOVERNOR



BRIAN BLALOCK  
CABINET SECRETARY

TERRY L. LOCKE  
DEPUTY CABINET SECRETARY

February 12, 2020

Provider Name  
Address  
City, State and Zip

Dear Child Care Provider:

Please be advised that the Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.8.3 NMAC – Children, Youth and Families General Provisions Governing Background Checks and Employment History Verification.

The significant proposed changes to the rules are to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. An inter-state criminal history check is not required if the applicant has resided in a state that participates in the Federal Bureau of Investigation's National Fingerprint File (NFF) (list of participating NFF states attached). In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirement of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

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Written public comment, including presentation of data, views, or arguments on the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECS-PublicComment@state.nm.us](mailto:CYFD-ECS-PublicComment@state.nm.us) with the subject line "8.8.3 NMAC Public Comment," or via first class mail to, or by hand delivery to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. The comment period ends at the conclusion of the public hearing on March 17, 2020.

**PLEASE BE ADVISED THAT THESE PROPOSED REGULATION CHANGES DO NOT AFFECT CURRENT ELIGIBILITY TO FAMILIES.** If you have any questions, please call Kimberly Brown at 505-841-4821 or 1-800-832-1321.

Sincerely,

Alejandra Rebolledo Rea, Acting Division Director  
Early Childhood Education and Care Department / Children, Youth and Families Department



# State of New Mexico

## CHILDREN, YOUTH and FAMILIES DEPARTMENT

**MICHELLE LUJAN GRISHAM**  
GOVERNOR

**HOWIE MORALES**  
LIEUTENANT GOVERNOR



**BRIAN BLALOCK**  
CABINET SECRETARY

**TERRY L. LOCKE**  
DEPUTY CABINET SECRETARY

February 12, 2020

Estimado familias:

Tenga en cuenta que el Departamento de Niños, Jóvenes y Familias (CYFD) está proponiendo cambios en la regulación 8.8.3 NMAC - Disposiciones generales para niños, jóvenes y familias que rigen las verificaciones de antecedentes penales y la verificación del historial de empleo.

Los cambios significativos propuestos a las reglas son enmendar los requisitos de verificación de antecedentes penales bajo la regulación 8.8.3 NMAC para cumplir con las regulaciones federales que requiere que los solicitantes obtengan verificaciones de antecedentes penales en conformidad con regulaciones 8.16.2 NMAC y 8.17.2 NMAC. Se requerirá que todo el personal prospectivo y existente (contratado después del 1 de octubre del 2016) obtenga una verificación del sistema de datos penales interestatal en los estados donde residió durante los cinco años anteriores. No se requiere una verificación de antecedentes penales interestatales si el solicitante ha residido en un estado que participa en el Archivo Nacional de Huellas Digitales (NFF) de la Oficina Federal de Investigaciones (se adjunta una lista de los estados participantes en el NFF). Además, se agrega lenguaje en la regulación 8.8.3.10 Cumplimiento de NMAC, para aclarar el requisito de una revisión de antecedentes de abuso y negligencia (actualmente enumerada en 8.8.3.6 Objetivo de NMAC) y una verificación del sistema de datos criminales interestatal en cada estado donde el solicitante residió durante los cinco años anteriores.

Esta carta sirve como aviso de que CYFD llevará a cabo una audiencia pública formal el martes 17 de marzo del 2020 a la 1:00 p.m. en el Salón Apodaca del Edificio PERA ubicado en 1120 Paseo de Peralta, Santa Fe, Nuevo México 87502. El propósito de esta audiencia pública es recibir comentarios públicos sobre los cambios propuestos a 8.8.3 NMAC - Disposiciones generales sobre niños, jóvenes y familias que rigen la verificación de antecedentes penales y verificación de historial de empleo. Cualquier miembro del público interesado, puede asistir a la audiencia y se le brindará una oportunidad razonable para ofrecer comentarios públicos, ya sea oralmente o por escrito, incluyendo presentación de datos, puntos de vista o argumentos, sobre las reglas propuestas durante la audiencia.

Se pueden encontrar copias de las reglas propuestas en el sitio web de CYFD en <https://www.newmexicokids.org/> o se pueden obtener en 1120 Paseo De Peralta, Santa Fe, Nuevo México, 30 días antes de la Audiencia Pública.

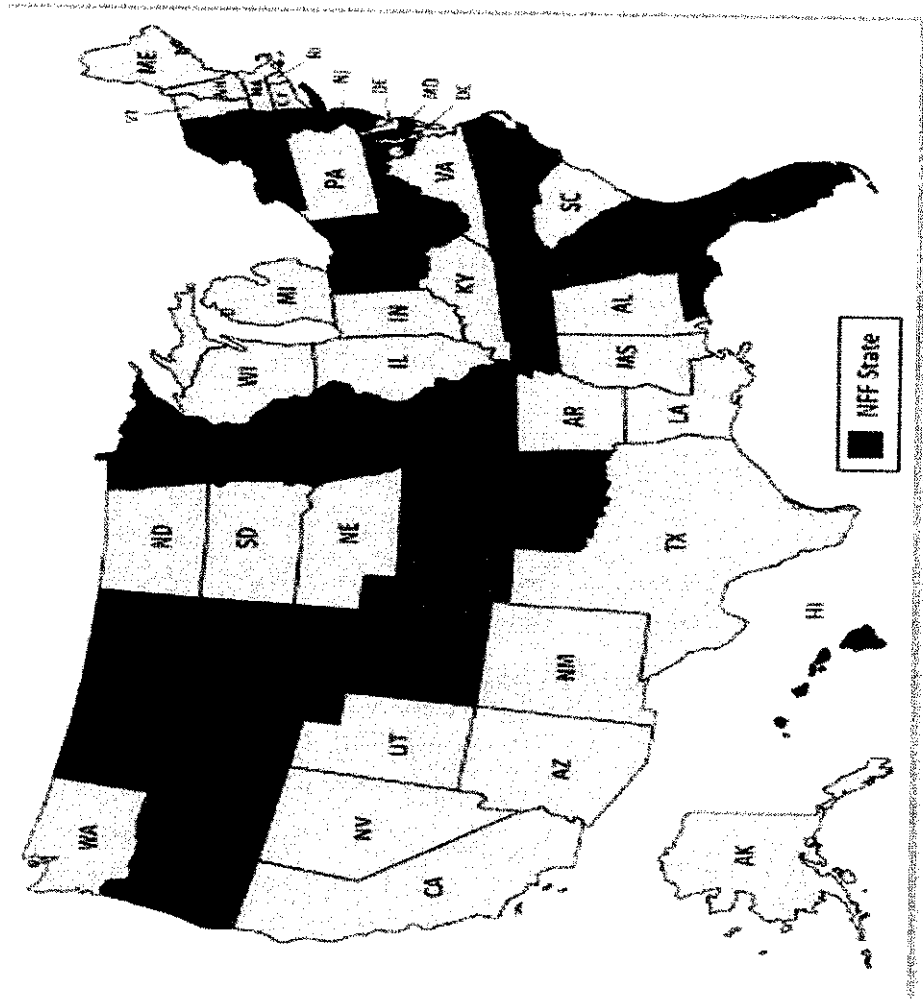
Los comentarios públicos escritos, incluyendo la presentación de datos, puntos de vista o argumentos sobre las reglas propuestas, de cualquier miembro del público interesado, también pueden enviarse por correo electrónico a CYFD-ECS-PublicComment@state.nm.us con el asunto "8.8.3 Comentario público de NMAC", o por correo de primera clase, o en persona a Kimberly Brown, Oficina de Servicios de Cuidado Infantil, Departamento de Niños, Jóvenes y Familias, PO Drawer 5160, Santa Fe, Nuevo México 87502-5160. El período de comentarios finaliza cuando finaliza la audiencia pública el 17 de marzo del 2020.

**TENGA EN CUENTA QUE ESTOS CAMBIOS DE REGULACIÓN PROPUESTOS NO AFECTAN LA ELEGIBILIDAD ACTUAL A LAS FAMILIAS.** Si tiene alguna pregunta, llame a Kimberly Brown al 505-841-4821 o al 1-800-832-1321.

Atentamente,

Alejandra Rebolledo Rea, Acting Division Director  
Early Childhood Education and Care Department / Children, Youth and Families Department





104-105-106-107-108-109-110-111-112-113-114-115-116-117-118-119-120-121-122-123-124-125-126-127-128-129-130-131-132-133-134-135-136-137-138-139-140-141-142-143-144-145-146-147-148-149-150-151-152-153-154-155-156-157-158-159-160-161-162-163-164-165-166-167-168-169-170-171-172-173-174-175-176-177-178-179-180-181-182-183-184-185-186-187-188-189-190-191-192-193-194-195-196-197-198-199-200-201-202-203-204-205-206-207-208-209-210-211-212-213-214-215-216-217-218-219-220-221-222-223-224-225-226-227-228-229-230-231-232-233-234-235-236-237-238-239-240-241-242-243-244-245-246-247-248-249-250-251-252-253-254-255-256-257-258-259-260-261-262-263-264-265-266-267-268-269-270-271-272-273-274-275-276-277-278-279-280-281-282-283-284-285-286-287-288-289-290-291-292-293-294-295-296-297-298-299-300-301-302-303-304-305-306-307-308-309-310-311-312-313-314-315-316-317-318-319-320-321-322-323-324-325-326-327-328-329-330-331-332-333-334-335-336-337-338-339-340-341-342-343-344-345-346-347-348-349-350-351-352-353-354-355-356-357-358-359-360-361-362-363-364-365-366-367-368-369-370-371-372-373-374-375-376-377-378-379-380-381-382-383-384-385-386-387-388-389-390-391-392-393-394-395-396-397-398-399-400-401-402-403-404-405-406-407-408-409-410-411-412-413-414-415-416-417-418-419-420-421-422-423-424-425-426-427-428-429-430-431-432-433-434-435-436-437-438-439-440-441-442-443-444-445-446-447-448-449-450-451-452-453-454-455-456-457-458-459-460-461-462-463-464-465-466-467-468-469-470-471-472-473-474-475-476-477-478-479-480-481-482-483-484-485-486-487-488-489-490-491-492-493-494-495-496-497-498-499-500-501-502-503-504-505-506-507-508-509-510-511-512-513-514-515-516-517-518-519-520-521-522-523-524-525-526-527-528-529-530-531-532-533-534-535-536-537-538-539-540-541-542-543-544-545-546-547-548-549-550-551-552-553-554-555-556-557-558-559-560-561-562-563-564-565-566-567-568-569-570-571-572-573-574-575-576-577-578-579-580-581-582-583-584-585-586-587-588-589-590-591-592-593-594-595-596-597-598-599-600-601-602-603-604-605-606-607-608-609-610-611-612-613-614-615-616-617-618-619-620-621-622-623-624-625-626-627-628-629-630-631-632-633-634-635-636-637-638-639-640-641-642-643-644-645-646-647-648-649-650-651-652-653-654-655-656-657-658-659-660-661-662-663-664-665-666-667-668-669-670-671-672-673-674-675-676-677-678-679-680-681-682-683-684-685-686-687-688-689-690-691-692-693-694-695-696-697-698-699-700-701-702-703-704-705-706-707-708-709-710-711-712-713-714-715-716-717-718-719-720-721-722-723-724-725-726-727-728-729-730-731-732-733-734-735-736-737-738-739-740-741-742-743-744-745-746-747-748-749-750-751-752-753-754-755-756-757-758-759-760-761-762-763-764-765-766-767-768-769-770-771-772-773-774-775-776-777-778-779-780-781-782-783-784-785-786-787-788-789-790-791-792-793-794-795-796-797-798-799-800-801-802-803-804-805-806-807-808-809-810-811-812-813-814-815-816-817-818-819-820-821-822-823-824-825-826-827-828-829-830-831-832-833-834-835-836-837-838-839-840-841-842-843-844-845-846-847-848-849-850-851-852-853-854-855-856-857-858-859-860-861-862-863-864-865-866-867-868-869-870-871-872-873-874-875-876-877-878-879-880-881-882-883-884-885-886-887-888-889-890-891-892-893-894-895-896-897-898-899-900-901-902-903-904-905-906-907-908-909-910-911-912-913-914-915-916-917-918-919-920-921-922-923-924-925-926-927-928-929-930-931-932-933-934-935-936-937-938-939-940-941-942-943-944-945-946-947-948-949-950-951-952-953-954-955-956-957-958-959-960-961-962-963-964-965-966-967-968-969-970-971-972-973-974-975-976-977-978-979-980-981-982-983-984-985-986-987-988-989-990-991-992-993-994-995-996-997-998-999-1000-1001-1002-1003-1004-1005-1006-1007-1008-1009-1010-1011-1012-1013-1014-1015-1016-1017-1018-1019-1020-1021-1022-1023-1024-1025-1026-1027-1028-1029-1030-1031-1032-1033-1034-1035-1036-1037-1038-1039-1040-1041-1042-1043-1044-1045-1046-1047-1048-1049-1050-1051-1052-1053-1054-1055-1056-1057-1058-1059-1060-1061-1062-1063-1064-1065-1066-1067-1068-1069-1070-1071-1072-1073-1074-1075-1076-1077-1078-1079-1080-1081-1082-1083-1084-1085-1086-1087-1088-1089-1090-1091-1092-1093-1094-1095-1096-1097-1098-1099-1100-1101-





**New Mexico Children,  
Youth & Families Department**

- Early Childhood Services
  - Child Development
  - Foster Staffing
  - Child Care Services
  - Park
  - Family Nutrition
- Protective Services
  - BS Overview
  - Adoption
  - Foster Care
  - Child Abuse & Neglect
  - Children's Trust Fund
- Juvenile Justice Services
  - Facilities
  - Probation & Aftercare
  - Reintegration Centers
  - Transition Services
  - Special Programs
  - Volunteer Services
- Substance Abuse Services
  - BHS Overview
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## Public Rule Hearing on Child, Youth & Families Governing Background Checks & Employment History Verification Set for Mar. 17

**NOTICE OF PUBLIC RULE HEARING (RANKING R.B.3 FINAL)**

The Children, Youth, and Families Department (CYFD), Early Childhood Services (ECS), will hold a formal public rule hearing on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Perito, Santa Fe, New Mexico to receive public comments regarding changes to regulation R.B.3 NMAC Requirements for Children, Youth, and Families General Provisions Governing Background Checks and Employment History Verification.

The proposed regulation changes may be obtained at [http://www.nmlegis.gov/publications/cyfd/](#) or by obtaining from the Early Childhood Education Care Department's Office, 1120 Paseo de Perito Room 205, Santa Fe, New Mexico. The date prior to the Public Hearing, written comments would be required for CYFD Board members. Comments will expire with the request for "B.R.3 NMAC Public Comment." The final date may be P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160, or be hand delivered to Kimberly Brown, Child Care Services Bureau, Children, Youth and Families Department, by March 17, 2020.

Interested persons may attend the hearing and will be provided a reasonable opportunity to offer public comment on the proposed rules during the hearing. If you are a person with a disability and you require the information in an alternative format or require special accommodations for participation in the public hearing, please contact Linda Gonzalez at [linda.gonzalez@cyfd.org](mailto:linda.gonzalez@cyfd.org). PCS requests all final agenda items 10 calendar days advance to provide requested alternative formats and special accommodations.

**NOTICIA DE AUDICION PUBLICA R.B.3 FINAL**

El Departamento de Niños, Jóvenes y Familias (CYFD), Servicios de la Primera Infancia (ECI) celebrará una audiencia pública sobre las regulaciones el martes 17 de marzo de 2020 a las 1:00 p.m. en el edificio HSI 1120 Paseo de Perito, Santa Fe, Nuevo México para recibir comentarios públicos sobre cambios en el Reglamento R.B.3 Requisitos de los NIYC para Niños, Jóvenes y Familias Disposiciones Generales que rigen las Verificaciones de Antecedentes y Verificación de la Historia del Empleo.

Los cambios de regulación propuestos serán obtenidos en <http://www.nmlegis.gov/publications/cyfd/> o mediante de la Oficina del Desarrollo de la Primera Infancia del Departamento de Niños, Jóvenes y Familias, 1120 Paseo de Perito, Room 205, Santa Fe, Nuevo México. La fecha antes de la audiencia pública, los comentarios escritos serán requeridos para los miembros del Consejo ECI. Los comentarios deberán ser recibidos con el momento de la solicitud de "R.B.3 NMAC Public Comment." por correo electrónico al P.O. Drawer 5160, Santa Fe, Nuevo México 87502 - 5160, o por entrega personal a Kimberly Brown, CHS Services Bureau, Children, Youth and Families Department, antes del 17 de marzo de 2020.

Las personas interesadas pueden asistir a la audiencia y se les dará una oportunidad razonable para ofrecer comentarios públicos sobre las reglas propuestas durante la audiencia. Si usted es una persona con una discapacidad y necesita esta información en un formato alternativo o requiere adaptaciones especiales para participar en la audiencia pública, comuníquese con Linda González al [linda.gonzalez@cyfd.org](mailto:linda.gonzalez@cyfd.org). ECS solicita al menos 10 días hábiles de anticipación para proporcionar





[illegible]



A., CYFD

Rachel Nowak <rachelmitchell@unm.edu>

Thursday, February 6, 2020 2:23 PM

Gonzales, Debra A., CYFD

MontanoWhite, Katrina, CYFD; Vigil, Raymond P., CYFD; Kliphuis, Tracy L, CYFD; Kathleen Carroll

[EXT] RE: Post Notice of Rule Making

Team!

Proposed Reg Change to 8.8.3 is now live! Please see it at <http://www.newmexicokids.org/proposed-regulation-changes-to-883-nmac-background-checks/>. We have posted both documents that you sent and are ready for when the public comments start coming in.

Debra, per our conversation, we labeled the new announcement as "NEW (2020)" and the four from last year as "PAST (2019)".

Please let us know what else is needed!

Best regards,

Rachel

**From:** Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>

**Sent:** Thursday, February 6, 2020 2:08 PM

**To:** Rachel Nowak <rachelmitchell@unm.edu>

**Cc:** MontanoWhite, Katrina, CYFD <Katrina.MontanoWhit@state.nm.us>; Vigil, Raymond P., CYFD <raymond.vigil@state.nm.us>; Kliphuis, Tracy L, CYFD <TracyL.Kliphuis@state.nm.us>; Kathleen Carroll <carrollk@unm.edu>

**Subject:** RE: Post Notice of Rule Making

Thank you Rachel,

Attached is the Draft 8.8.3 Rule change for posting.

Deb

**From:** Rachel Nowak [mailto:rachelmitchell@unm.edu]

**Sent:** Thursday, February 6, 2020 10:47 AM

**To:** Gonzales, Debra A., CYFD

**Cc:** MontanoWhite, Katrina, CYFD; Vigil, Raymond P., CYFD; Kliphuis, Tracy L, CYFD; Kathleen Carroll

**Subject:** [EXT] RE: Post Notice of Rule Making

Hi Debra,

I received your email and will work with our web designer to get this posted and to figure out what makes sense for the previous hearing docs. I'll let you know when we're live.

Best regards,

Rachel

**From:** Gonzales, Debra A., CYFD <[debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us)>  
**Sent:** Thursday, February 6, 2020 9:57 AM  
**To:** Rachel Nowak <[rachelmitchell@unm.edu](mailto:rachelmitchell@unm.edu)>  
**Cc:** MontanoWhite, Katrina, CYFD <[Katrina.MontanoWhit@state.nm.us](mailto:Katrina.MontanoWhit@state.nm.us)>; Vigil, Raymond P., CYFD <[raymond.vigil@state.nm.us](mailto:raymond.vigil@state.nm.us)>; Kliphuis, Tracy L, CYFD <[TracyL.Kliphuis@state.nm.us](mailto:TracyL.Kliphuis@state.nm.us)>  
**Subject:** Post Notice of Rule Making

UNM-IT Warning: This message was sent from outside of the Lobo Mail system. Do not click on links or open attachments unless you are sure the content is safe. (2/3)

Good morning Rachel,

Attached is a "Notice of Rule Making" which needs to be posted on the New Mexico Kids website by February 11<sup>th</sup>. We will use the same format from last hearing. We will need to post public comments along with the rule record. Let me know what you feel worked or didn't work last time.

We have the previous Rule Hearing documents under announcements on the NM Kids website. Is there somewhere we can archive them on the website?

Thank you very much!

**Debra A. Gonzales, Policy Compliance and Quality Assurance Manager**

Office: 505.231-5820  
Mobile: 505.231.5820  
Fax: 505.476.0143  
Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)  
Web: [www.cyfd.org](http://www.cyfd.org)



New Mexico Children,  
Youth & Families Department

Early Childhood Services  
**Information Governance**  
Program, Policy, Audit and Reports

...providing essential data services for New Mexico children

**PULLTOGETHER.ORG**

*We are improving the quality of life for our children.*

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.

## A., CYFD

Gonzales, Debra A., CYFD

Monday, February 10, 2020 9:55 AM

Sweeney, Sylvia, CYFD

Kliphuis, Tracy L, CYFD; Vigil, Raymond P., CYFD; Gonzales, Debra A., CYFD

Post on CYFD website

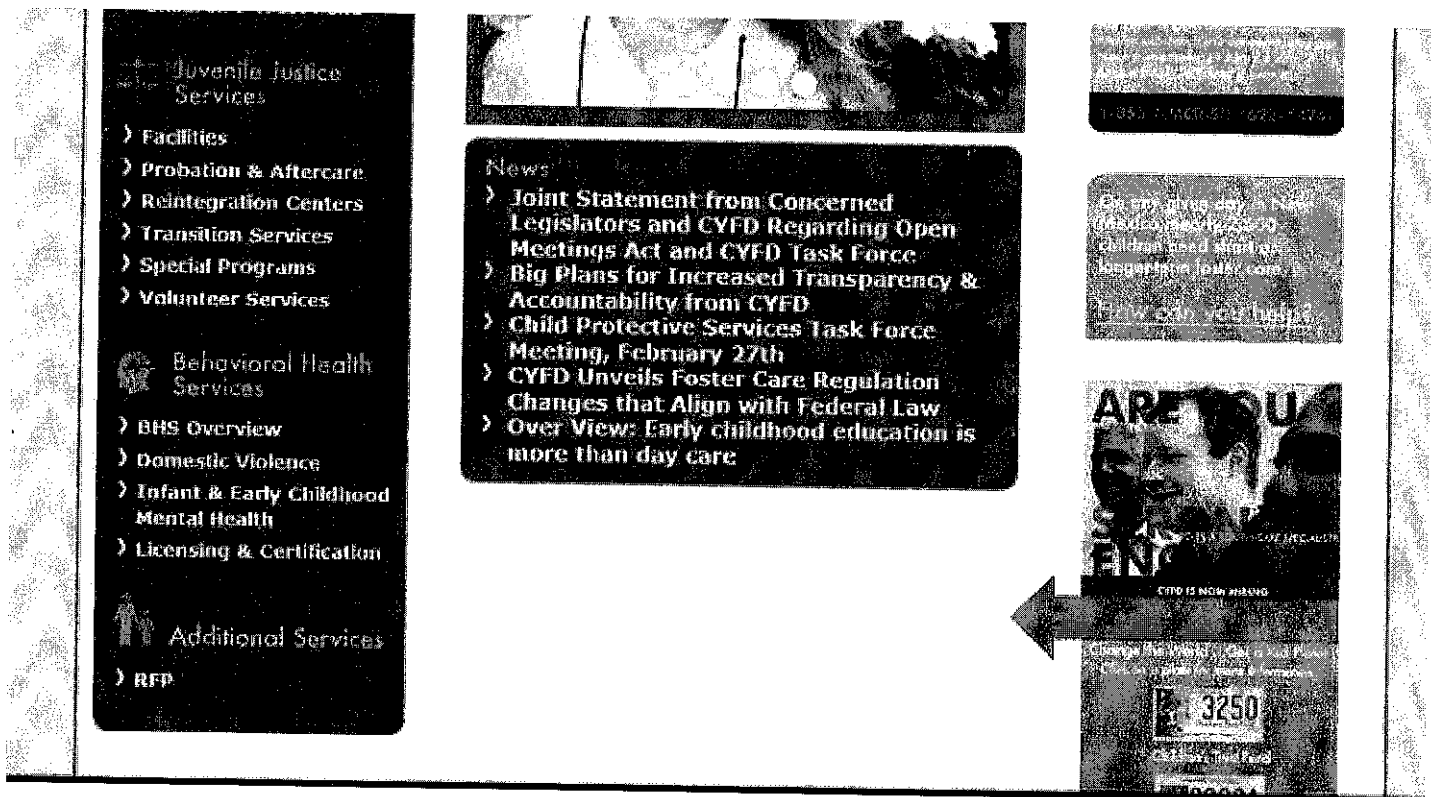
CYFD\_8 8 3notice.pdf

ents:

ase place the below information on the Child Care Services page as listed below.

Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.8.3 NMAC - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION.

Click link and send to: <https://www.newmexicokids.org/>



Also on the Child Care Services page:

Click this link - Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.8.3 NMAC - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION.

A public rule hearing will be held on Tuesday, March 17, 2020 at 1:00 p.m. in Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502.

We will need this information post by end of day tomorrow, February 11, 2020.

Please let us know if you have any questions or concerns.

Thank you very much!!!

Deb

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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Youth & Families Department

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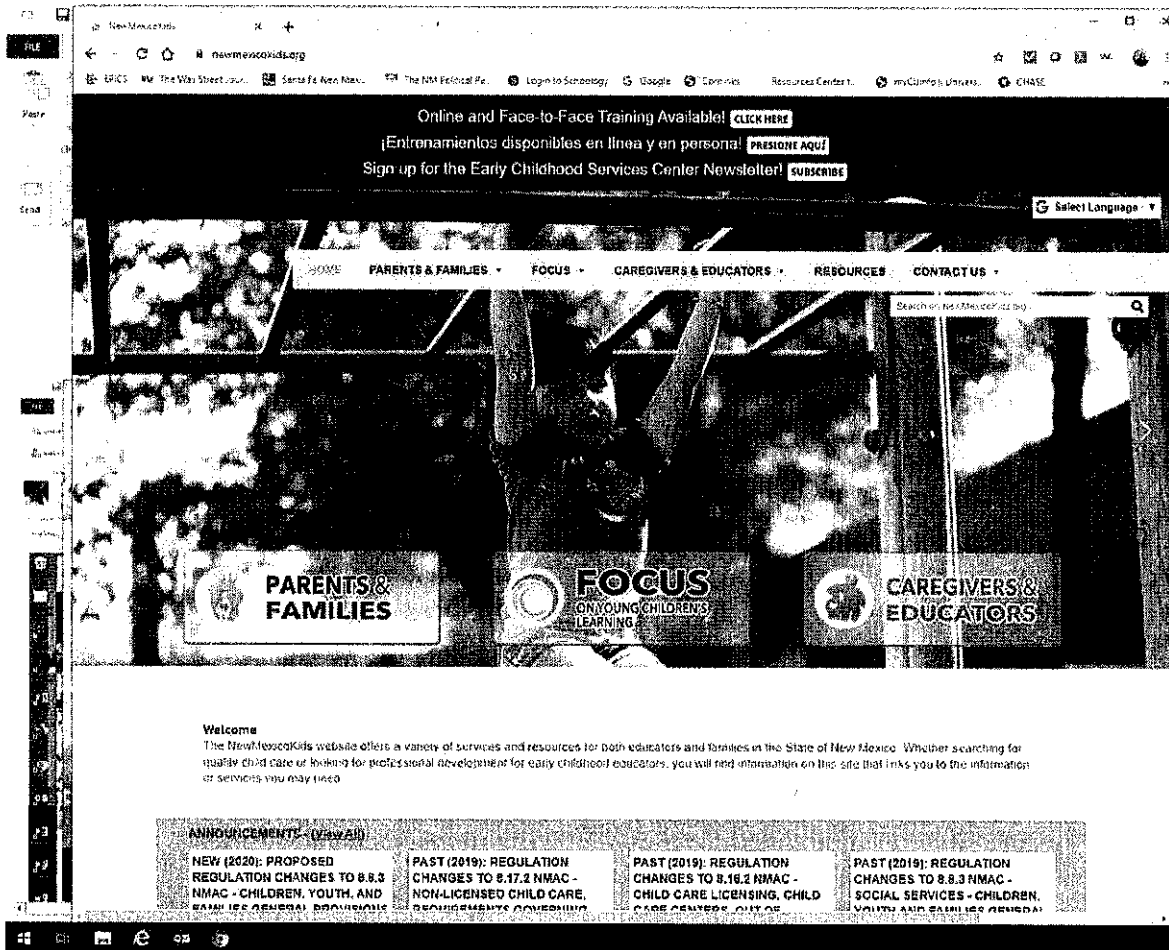
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---

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.

From: Kilgus, Tracy L. CYFD  
To: Kilgus, Tracy L. CYFD  
Subject: Proof of Posting on NM Kids Website  
Date: Monday, February 10, 2020 1:46:59 PM







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CAREGIVERS & EDUCATORS

Welcome

The New Mexico col.org website offers a variety of services and resources for both educators and families in the State of New Mexico. Whether searching for quality child care or looking for professional development for early childhood educators, you will find information on this site that links you to the information or services you may need.

ANNOUNCEMENTS (VIEW ALL)

NEW (2020): PROPOSED REGULATION CHANGES TO 8.8.3 NMAG - CHILDREN, YOUTH, AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION; NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

Click on the links below to view or download the following documents:  
Proposed regulation changes to 8.8.3 NMAG - Children, Youth, and Families

See More

PAST (2019): REGULATION CHANGES TO 8.17.2 NMAG - NON-LICENSED CHILD CARE, REQUIREMENTS GOVERNING REGISTRATION OF NON-LICENSED FAMILY CHILD CARE HOMES AND NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

Click on the links below to view or download the following documents:  
Proposed regulation changes to 8.17.2 NMAG - Non-Licensed Child Care

See More

PAST (2019): REGULATION CHANGES TO 8.16.2 NMAG - CHILD CARE LICENSING, CHILD CARE CENTERS, OUT OF SCHOOL TIME PROGRAMS, FAMILY CHILD CARE HOMES, AND OTHER EARLY CARE AND EDUCATION PROGRAMS AND NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

Click on the links below to view or download the following documents:  
Proposed regulation changes to 8.16.2 NMAG - Child Care Licensing, Child

See More

PAST (2019): REGULATION CHANGES TO 8.8.3 NMAG - SOCIAL SERVICES - CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS, GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION AND NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

Click on the links below to view or download the following documents:  
Proposed regulation changes to 8.8.3 NMAG - Social Services - Children

See More

cyd

CHILDREN, YOUTH, & FAMILIES

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**From:** Kliphuis, Tracy L. CYFD  
**To:** Kliphuis, Tracy L. CYFD  
**Subject:** Proof of Posting on Sunshine Portal  
**Date:** Monday, February 10, 2020 1:31:01 PM  
**Attachments:** image006.png

The screenshot shows the Sunshine Portal website with the following content:

**SUNSHINEPORTAL.NM.COM**  
THE OFFICIAL GOVERNMENT TRANSPARENCY PORTAL OF NEW MEXICO

**Public Hearing Search**

Hearing Date: All  
 Comments: Unrated Date: All  
 Agency: Children Youth & Families Department

**Proposed Rule Name:**  
 8.8.3 NMAG CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND  
**Agency:**  
 Children Youth & Families Department  
**Purpose:**  
 The purpose of the rules is to amend the background check requirements under 8.8.3 NMAG to comply with federal regulations for applicants required to obtain background checks pursuant to 8.102 NMAG and 8.17.2 NMAG. All prospective and existing staff hired after October 1, 2014 will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3 NMAG Objective to clarify the requirement of both a screen of abuse and neglect (current) under 8.8.3 NMAG Objective and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.  
**Summary:**  
 The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.3 NMSA 1978 and 1.24.25.11 NMAG that it proposes to amend amendments to the following rules regarding CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS GOVERNING BACKGROUND CHECKS AND EMPLOYMENT HISTORY VERIFICATION as authorized by Section 9-2A-7 NMSA 1978.  
**Administrative Codes:**  
<http://newmexico.gov/policies/2020/09/05/003.html>  
**Rule Complete Copy:**  
 Copies of the proposed rules may be found at end of this notice and at CYFD's website at <https://www.cyfd.nm.gov/policies/2020/09/05/003.html> or may be obtained from the Early Childhood Education Care Department Office, 1120 Paseo de Peralta Room 205, Santa Fe, New Mexico, 30 days prior to the Public Hearing.  
**Comments:**  
 Click Here to Access Rule Comments  
**Rule Explanatory Statement:**  
 Click Here to Access the Rule Explanatory Statement  
**Related New Mexico Register Publications:**  
 Not available  
**For any additional information or questions concerning this rule making or posting please contact:**  
 Kimberly Stepp [cyfd-ecce-publiccomment@state.nm.us](mailto:cyfd-ecce-publiccomment@state.nm.us) or 505-832-1321  
[cyfd-ecce-publiccomment@state.nm.us](mailto:cyfd-ecce-publiccomment@state.nm.us)  
 800-832-1321  
**Last Updated Date:**  
 2/19/2020 10:23 AM

**How to submit Comments:**  
 Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may also be submitted via email to [CYFD-ECCE-PublicComment@state.nm.us](mailto:CYFD-ECCE-PublicComment@state.nm.us) with the subject line "8.8.3 NMAG Public Comment," via first class mail to P.O. Drawer 5150, Santa Fe, New Mexico 87502-5150 or by hand delivery to Kimberly Stepp, CYFD Care Services Bureau, Children, Youth and Families Department. The comment period ends at the conclusion of the public hearing on March 17, 2020.  
**When are comments due:**  
 3/17/2020 3:00 PM  
**Hearing Date:**  
 3/17/2020 1:00 PM  
**Public Hearing Location:**  
 Old PERA Building, Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico 87502 3/17/2020 (1:00 PM - 3:00 PM)  
**How to participate:**  
 Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rule during the hearing. Individuals with disabilities who need any form of Auxiliary aid to attend or participate in the public hearing are asked to contact Debra Costales at [debra.costales@state.nm.us](mailto:debra.costales@state.nm.us). CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

File	File Name	File Type	Description
More Document	CYFD_8.8.3.docx	PDF	

Trais Kliphuis  
 Quality Assurance Manager



New Mexico Children,  
 Youth & Families Department

Early Childhood Services, Information Governance Bureau  
 1120 Paseo de Peralta, Santa Fe, NM  
 (505) 827-8401



**From:** [Gonzales, Debra A., CYFD](#)  
**To:** [Kliphuis, Tracy L., CYFD](#)  
**Subject:** FW: Child, Youth and Families Department - Notice of Rulemaking and Public Rule Hearing  
**Date:** Monday, February 10, 2020 12:11:28 PM  
**Attachments:** [image002.png](#)

---

FYI

**From:** Vandestreek, Joanne [<mailto:Joanne.Vandestreek@nmlegis.gov>]  
**Sent:** Monday, February 10, 2020 11:53 AM  
**To:** Gonzales, Debra A., CYFD  
**Subject:** [EXT] RE: Child, Youth and Families Department - Notice of Rulemaking and Public Rule Hearing

Hello,

We are confirming that we have received your email.

Sincerely,

Joanne Vandestreek  
Senior Legislative Librarian  
New Mexico State Legislature Legislative Council Service  
411 State Capitol  
Santa Fe  
New Mexico 87501  
(505) 986-4656  
[Joanne.Vandestreek@nmlegis.gov](mailto:Joanne.Vandestreek@nmlegis.gov)

**From:** Gonzales, Debra A., CYFD <[debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us)>  
**Sent:** Monday, February 10, 2020 11:47 AM  
**To:** lcsmail <[lcsmail@nmlegis.gov](mailto:lcsmail@nmlegis.gov)>  
**Cc:** Kliphuis, Tracy L, CYFD <[TracyL.Kliphuis@state.nm.us](mailto:TracyL.Kliphuis@state.nm.us)>; Vigil, Raymond P., CYFD <[raymond.vigil@state.nm.us](mailto:raymond.vigil@state.nm.us)>; Gonzales, Debra A., CYFD <[debra.gonzales@state.nm.us](mailto:debra.gonzales@state.nm.us)>; Brown, Kimberly, CYFD <[kimberly.brown@state.nm.us](mailto:kimberly.brown@state.nm.us)>; Gutierrez, Mary S., CYFD <[mary.gutierrez1@state.nm.us](mailto:mary.gutierrez1@state.nm.us)>; Tingwall, Leighann, CYFD <[leighann.tingwall@state.nm.us](mailto:leighann.tingwall@state.nm.us)>  
**Subject:** [EXT] Child, Youth and Families Department - Notice of Rulemaking and Public Rule Hearing

As part of the New Mexico State Rules Act requirement of providing notice to the New Mexico Legislative Council for distribution to appropriate interim and standing legislative committees, attached a Notice of Rulemaking and Public Rule Hearings for the following proposed change:



- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification

Please provide confirmation of receipt and distribution to appropriate interim and standing legislative committees.

Thank you.

Debra

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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**Gonzales, Debra A., CYFD**

---

**From:** Gonzales, Debra A., CYFD  
**Sent:** Tuesday, February 11, 2020 10:07 AM  
**To:** Gonzales, Debra A., CYFD  
**Cc:** Kliphuis, Tracy L, CYFD  
**Subject:** 8.8.3 NMAC - NOTICE OF RULEMAKING AND PUBLIC RULE HEARING  
**Attachments:** CYFD\_8 8 3notice.pdf

Children, Youth and Families Department (CYFD) will hold a formal public hearing on proposed regulation changes to:

- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification

Attached is the Notice of Rulemaking and Public Rule Hearing.

They can also be found on the NM Kids website at [www.newmexicokids.org](http://www.newmexicokids.org)

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.



## **List of individuals to whom notice was mailed or sent electronically as required by 1.24.25.14.A**

- Names of child care assistance recipients may be requested through an IPRA
- Names of child care providers may be requested through an IPRA



## Kliphuis, Tracy L, CYFD

---

**From:** Gonzales, Debra A., CYFD  
**Sent:** Monday, February 10, 2020 10:56 AM  
**To:** Brown, Kimberly, CYFD  
**Cc:** Steward, Patricia A., CYFD; Kliphuis, Tracy L, CYFD; Vigil, Raymond P., CYFD; Gonzales, Debra A., CYFD  
**Subject:** Post Notice for 8.8.3 NMAC  
**Attachments:** CYFD\_8 8 3notice.pdf

Hello,

Can you please ask all Child Care offices to post and make available the attached Notice?

We will need this done by Tuesday, February 11, 2020.

Please let us know if you have any questions.

Thank you very much!

Debra

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

Office: 505.231-5820

Mobile: 505.231.5820

Fax: 505.476.0143

Email: [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

Web: [www.cyfd.org](http://www.cyfd.org)



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---

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.

C

O

C

## Gonzales, Debra A., CYFD

---

**From:** Gonzales, Debra A., CYFD  
**Sent:** Tuesday, April 28, 2020 1:48 PM  
**To:** lcs@nmlegis.gov  
**Cc:** CYFD-ECS-PublicComment; Raymond Vigil (raymond.vigil@state.nm.us)  
**Subject:** 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification  
**Attachments:** CYFD\_8 8 3notice\_2.pdf

Tracking:	Recipient	Read
	lcs@nmlegis.gov	
	CYFD-ECS-PublicComment	
	Raymond Vigil (raymond.vigil@state.nm.us)	
	Smith, Ashleigh, CYFD	Read: 4/28/2020 1:55 PM
	Kliphuis, Tracy L, CYFD	Read: 4/28/2020 1:59 PM
	Gonzales, Debra A., CYFD	Read: 4/28/2020 2:06 PM
	RebolledoRea, Alejandra, CYFD	Deleted: 5/11/2020 3:30 PM

As part of the New Mexico State Rules Act requirement of providing notice to the New Mexico Legislative Council for distribution to appropriate interim and standing legislative committees, attached a Notice of Rulemaking and Continued Public Rule Hearings for the following proposed change:

- 8.8.3 NMAC – Social Services - Children, Youth and Families General Provisions, Governing Background Checks and Employment History Verification

Please provide confirmation of receipt and distribution to appropriate interim and standing legislative committees.

Thank you.

Debra

***Debra A. Gonzales, Policy Compliance and Quality Assurance Manager***

**Office:** 505.231-5820

**Mobile:** 505.231.5820

**Fax:** 505.476.0143

**Email:** [Debra.Gonzales@state.nm.us](mailto:Debra.Gonzales@state.nm.us)

**Web:** [www.cyfd.org](http://www.cyfd.org)





**Exhibit 1 (Public Comment at Hearing)**

BRANDON Baca 01:09 PM

This is asking that October 1st 2016, what will be cost schools to get the done per person? Could the change start in July 2020? As many staff just went through process to adhere to the new 5 year fingerprint for this past year.

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**NMAC**

**Transmittal Form**

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2020 JUL -2 AM 10:15

Volume:  Issue:  Publication date:  Number of pages:  (ALD Use Only)   
Sequence No.

Issuing agency name and address:  Agency DFA code:

Contact person's name:  Phone number:  E-mail address:

Type of rule action: ☐ New ☒ Amendment ☐ Repeal ☐ Emergency ☐ Renumber ☐ (ALD Use Only)   
Most recent filing date:

Title number:  Title name:

Chapter number:  Chapter name:

Part number:  Part name:

Amendment description (If filing an amendment):

Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference?  
Yes ☐ No ☒

Please list attachments or Internet sites if applicable.

If materials are attached, has copyright permission been received? Yes ☐ No ☐ Public domain ☐

**Specific statutory or other authority authorizing rulemaking:**

Notice date(s):

Hearing date(s):

Rule adoption date:

Rule effective date:



# Concise Explanatory Statement For Rulemaking Adoption:

2020 JUL -2 AM 10:15

## Findings required for rulemaking adoption:

### Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Reason for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency:

The purpose of the rules is to amend the background check requirements under 8.8.3 NMAC to comply with federal regulations for applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC. All prospective and existing staff (hired after October 1, 2016) will be required to obtain an inter-state criminal repository check in states where they resided during the preceding five years. In addition, language is added in 8.8.3.10 NMAC Compliance to clarify the requirements of both a screen of abuse and neglect (currently listed under 8.8.3.6 NMAC Objective) and an inter-state criminal repository check in each state where the applicant resided during the preceding five years.

Reasons for any change between the published proposed rule and the final rule: There are no changes between the published rule and the final rule.

We received one public comment asking what the cost to schools will be to get this done per person. Could the change start in July 2020? Many staff just went through the process to adhere to the new 5 year fingerprint for this past year.

The regulation changes to 8.8.3 NMAC are necessary to comply with federal regulations and apply to all prospective and existing staff (hired after October 1, 2016). Applicants/staff will be required to obtain an inter-state criminal repository check in each state where they resided during the preceding five years. Existing staff will only be required to comply with the new interstate criminal repository requirement. The cost will vary and is determined by the States where the applicant/staff resided during the preceding five years. The new requirement will likely be effective in July 2020.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Elizabeth Groginsky

Check if authority has been delegated

☒

Title:

Secretary

Signature: (BLACK ink only)

Date signed:



7/1/20



This is an amendment to 8.8.3 NMAC Sections 6 and 10 effective July 14, 2020. 2020 JUL -2 AM 10:15

**8.8.3.6 OBJECTIVE:**

**A.** The purpose of these regulations is to set out general provisions regarding background checks and employment history verification required in settings to which these regulations apply.

**B.** Background checks are conducted in order to identify information in applicants' backgrounds bearing on whether they are eligible to provide services in settings to which these regulations apply.

**C.** Abuse and neglect screens of databases in New Mexico are conducted by BCU staff in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply. Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC will also undergo a screen of abuse and neglect information and an inter-state criminal history check in each State where the applicant resided during the preceding five years.

[8.8.3.6 NMAC - Rp, 8.8.3.6 NMAC, 10/1/2016, A, 10/1/2019; A, 7/14/2020]

**8.8.3.10 COMPLIANCE:**

**A.** Compliance with these regulations is a condition of licensure, registration, certification or renewal, or continuation of same or participation in any other program or contract within the scope of these regulations.

**B.** The licensee is required to:

**(1)** submit an electronic fingerprint submission receipt and the required forms for all direct providers of care, household members in licensed and registered child care homes, or any staff member, employee, or volunteer present while care recipients are present, or other adult as required by the applicable regulations prior to the commencement of service, whether employment or, contractual, or volunteer. In the case of a licensed child care home and a registered home, the licensee must submit an electronic fingerprint submission receipt and the required forms for new household members or for any adult who is required to obtain a background check pursuant to 8.16.2 NMAC or 8.17.2 NMAC as applicable. However, in the case of a registered family child care food-only home, all household members are only required to undergo a criminal history and child abuse and neglect screening.

**(2)** Applicants required to obtain background checks pursuant to 8.16.2 NMAC and 8.17.2 NMAC must indicate states where they resided during the preceding five years and obtain the following:

**(a)** a screen of abuse and neglect information in each state where the applicant resided during the preceding five years; and

**(b)** an inter-state criminal history check in each state where a new applicant resided during the preceding five years. An inter-state criminal history check is not required if a new applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file. All existing staff hired after October 1, 2016, must undergo an inter-state criminal history check in each state where the applicant resided during the preceding five years at the time of application. An inter-state criminal history check is not required if an applicant has resided in a state that participates in the federal bureau of investigation's national fingerprint file.

**(2)3** verify the employment history of any prospective direct provider of care by contacting references and prior employers/agencies to elicit information regarding the reason for leaving prior employment or service; the verification shall be documented and available for review by the licensing authority; EXCEPTION: verification of employment history is not required for registered home providers or child care homes licensed for six or fewer children.

**(3)4** submit an adult household member written statement form for each adult household member in a registered family child care food-only home setting in order to conduct criminal history and child abuse and neglect screens on such household members; an adult household member is an adult living in the household or an adult that spends a significant amount of time in the home; the licensee must submit the required forms for new adult household members pursuant to 8.17.2 NMAC.

**(4)5** provide such other information BCU staff determines to be necessary; and

**(5)6** maintain documentation of all applications, correspondence and eligibility relating to the background checks required; in the event that the licensee does not have a copy of an applicant's eligibility documentation and upon receipt of a written request for a copy, the BCU may issue duplicate eligibility documentation to the original licensee provided that the request for duplicate eligibility documentation is made within one year of the applicant's eligibility date.

**C.** If there is a need for any further information from an applicant at any stage of the process, the BCU shall request the information in writing from the applicant. If the BCU does not receive the requested information within fifteen calendar days of the date of the request, the BCU shall deny the application and send a notice of background check denial.





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**D.** Any person who knowingly makes a materially false statement in connection with these requirements will be denied eligibility.  
[8.8.3.10 NMAC - Rp, 8.8.3.10 NMAC, 10/1/2016, A, 10/1/2019; A, 7/14/2020]

