CHAPTER 11

FOSTER PARENTS

This chapter covers the following with regard to foster parents:

- Role of foster parents.
- Qualifications, licensure, and training.
- Responsibilities.
- Participation in the case, including:
  - collaboration with the case management team; and
  - involvement with the legal proceedings.

11.1 Introduction

Simply stated, foster parents provide care for children who are removed from their homes and placed in the custody of the state because of suspected abuse or neglect. While accurate, such a factual statement does not convey the breadth of what foster parents provide to children in the state’s custody. By taking children who have experienced neglect or abuse into their homes, foster parents provide far more than food, clothing, and shelter; they also offer stability, compassion, patience, safety, love, and many other forms of support. They help with homework and advocate for their foster children at school, make sure that their foster children receive proper dental and medical care, understand that their foster children love their parents despite the problems that brought them into foster care, and encourage their foster children to maintain family, community, and cultural connections. Foster parents also provide a critical link between CYFD and the child, keeping the agency informed about the child’s needs and well-being, and participating in case planning. In sum, foster parents are central to the success of the child welfare system.

11.2 Qualifications and Licensure

Foster parents are licensed and regulated by CYFD or a child placement agency. §32A-1-4(H). CYFD issues three types of foster care licenses: the family foster home license, the provisional license for relative foster care, and the specialized foster home license for care of special needs foster children. A child placement agency may issue a treatment foster care license to a family foster home. CYFD does not license treatment foster care homes. 8.26.4.17 NMAC.
11.2.1 Family Foster Home License

Any adult who is a legal resident of the country and who resides in New Mexico can apply to be a foster parent. People wanting to become foster parents are subject to screening which includes criminal record checks with the FBI and state and local police and a CYFD abuse and neglect check. Foster parents also must undergo a rigorous home study and complete a detailed autobiographical application that provides the licensing body with information about the potential ability of an adult to be a substitute caregiver. In addition, CYFD interviews in person all adult members of the foster parent applicant’s household. 8.26.4.12 NMAC.

Foster parent applicants attend required pre-service training. 8.26.4.14 NMAC. At a minimum, this training generally includes:

- communication techniques;
- parenting techniques for children in crisis;
- working with biological parents;
- understanding child development;
- techniques for de-escalating crisis situations;
- adult, child, and infant CPR and first aid;
- understanding grief and loss; and
- child trauma and attachment issues.

Once licensed, the foster parent must complete at least 12 hours of training each year. For foster parents licensed by CYFD, six of the 12 hours are mandated by CYFD; the remaining 6 hours are chosen by the foster family and approved by CYFD. 8.26.4.14 NMAC. The content of the mandatory training varies from year to year and has addressed placement stability, concurrent planning, attachment, and trauma, among other things.

11.2.2 Provisional Licenses for Relative Foster Care

Relatives who provide foster care for children in the state’s custody must be licensed. Unlike other foster parent applicants, however, relatives may begin fostering their relative child with a provisional license before completing the “full” family foster home license. A provisional license may be issued for 60 days once CYFD completes the initial relative assessment and a supervisor approves the provisional license. The initial relative assessment involves collecting and assessing the following information:

- the child’s attitude toward the prospective caregiver;
- the prospective caregiver’s attitude toward the child and parents, motivation to foster the child, and ability to safely parent the child;
- local and state criminal records;
- CYFD abuse and neglect referral history; and
- the physical standards checklist.

The provisional license is valid for 60 days, with the possibility of one 30-day extension.
During that period, the relative must complete all of the requirements for family foster home licensing. If the relative does not complete these licensing requirements, the foster child must be removed from the relative’s home. 8.26.4.16 NMAC.

11.2.3 Specialized Foster Home Licenses

A specialized foster home license is a license issued to a licensed foster parent who has the additional training, education, or experience needed to care for a special needs certified child. 8.26.4.7 NMAC. Specialized foster homes may care for no more than 3 special needs certified foster children at a time. 8.26.4.17 NMAC.

11.2.4 Treatment Foster Care

Treatment foster care is designed to “provide intensive therapeutic support, intervention and treatment” for foster children “who would otherwise require a more restrictive placement.” 8.26.4.7 NMAC. More specifically, treatment foster care services are provided in a foster family setting for “children or adolescents who are psychologically or emotionally disturbed, or behaviorally disordered[.]” 7.20.11.7 NMAC. Foster children and adolescents are eligible for treatment foster care if they:

- are at risk for failure or have failed in regular foster homes;
- are unable to live with their own families; or
- are transitioning from residential care as part of the process of returning to their family and community. 7.20.11.29 NMAC.

As noted earlier, CYFD does not license treatment foster care homes. Rather, treatment foster homes are licensed by child placement agencies that have met the treatment foster care standards in 7.20.11.29 NMAC. 8.26.4.17 NMAC. Treatment foster parents must complete 30 hours of training before a child is placed in the foster home, and an additional 10 hours within two months of the first placement. 7.20.11.29 NMAC. This training must include:

- first aid and CPR;
- child and adolescent development;
- behavioral management;
- prevention and de-escalation of aggressive behavior and the use of therapeutic holds;
- crisis management/intervention;
- grief and loss issues for foster children;
- cultural competence and culturally responsive services;
- specific agency policies and procedures, including documentation;
- recognizing the signs of abuse and neglect and understanding reporting requirements;
- side-effects of psychotropic medications; and
- the role of the treatment foster parent in treatment planning.
Twenty-four hours of in-service training are required each year after a child is placed in the home. *Id.*

### 11.3 Responsibilities of Foster Parents

#### 11.3.1 Family Foster Parents

Although it is difficult to capture the essence and importance of the foster parent in a list of responsibilities, CYFD regulations describe the roles and responsibilities of the foster parent as follows:

- The foster parent is responsible for the daily care and supervision of a child placed in the foster parent’s home.
- The foster parent helps preserve the child’s connections with family and community, including the child’s connection with the foster parent once the child leaves foster care.
- The foster parent agrees to abide by all federal, state, and local laws and CYFD’s licensing standards for foster care.
- The foster parent is a member of the child’s case management team and as a team member participates in the development and implementation of team plans and may participate in conferences, Citizen Review Board meetings, judicial reviews, Individual Education Plan meetings, etc. Foster parents do not make independent plans for children in their care.
- The foster parent may serve as a surrogate parent to protect the foster child’s educational rights and acts as the student’s advocate in the educational decision-making process.
- The foster parent may serve as a surrogate parent for early intervention, evaluation, assessment, and treatment, when appointed by the Department of Health’s Director of the Family Infant Toddler program.
- The foster parent keeps copies of the foster child’s medical and educational documents in a file that remains with the child if the child is moved.
- Foster parents, in cooperation with CYFD, create or maintain a life book for each foster child, which will remain with the child if the child is moved.
- Foster parents maintain and return all of a child’s belongings when he or she moves to another placement, including return home.
- Foster parents may refuse placements they believe are not appropriate to their home.
- With the exception of law enforcement, foster parents do not release the foster child to anyone, including the child’s parents or other relatives, without CYFD’s approval.
- Foster parents document their observations of the child’s attitudes and behaviors and provide the information to CYFD.
- Foster parents honor the confidentiality provisions of the Children’s Code.
- Foster parents agree to never inflict corporal punishment on a child in foster care, including shaking, spanking, whipping, hitting, hair or ear pulling, or to use isolation, forced exercise, threats of exclusion from the foster home, or denial of food, sleep, or approved visits with the child’s parent as discipline. Foster parents are prohibited
from using any actions intended to produce fear, shame, or other emotional and/or physical trauma.

- Foster parents do not belittle or disparage the foster child’s parents, family, or cultural heritage, and encourage recognition and acceptance of the family’s strengths and achievements.
- Foster parents cooperate with and carry out CYFD’s plans for the child, including returning the child to his or her parents, placing with relatives, transferring to other substitute care settings, or adoption planning and placement. 8.26.2.12 NMAC.

Foster parents provide transportation to medical, educational, and recreational activities, as well as food, clothing, and activities that are age appropriate and promote healthy development. They are expected to provide a structured and nurturing home which provides appropriate discipline and expectations of the child as a member of the family.

--- As described by a foster parent.

11.3.2 Treatment Foster Parents

Treatment foster parents have many of the same core roles and responsibilities as other foster parents, but have additional responsibilities because of the unique behavioral and psychological needs of their foster children. They work with the treatment team and with agency supervision to develop and implement the treatment plan. They also provide frontline treatment interventions. The family living experience is the basic service to which individualized treatment interventions are added. 7.20.11.29(B)(11) NMAC.

In addition, treatment foster parents are responsible for:

- maximizing the likelihood that services are provided in a culturally competent and culturally proficient manner;
- helping the foster child maintain contact with his or her family (unless contraindicated by the treatment plan);
- working to meet the foster child’s permanency goals;
- keeping records of the foster child’s behaviors, activities, and significant events related to the treatment plan;
- keeping the agency informed of significant events and reporting serious incidents;
- maintaining confidentiality;
- being available at all times; and
- working with and securing all resources and services available in the community. Id.

11.4 Foster Parents as Members of the Case Management Team

The foster parent is a member of the child’s case management team together with the parents, the child (if age appropriate), the CYFD worker, the CYFD supervisor, service providers, and any significant others in the child’s and/or family’s life. 8.26.2.12 NMAC. Foster parents play an essential role in contributing vital information about the child to the team. As the foster parent is the primary caregiver and observes behaviors that indicate the progress or
needs of the child, it is important that he or she be involved in team meetings or staffings.

While foster parents provide daily care, they also serve as advocates for permanence for the child. Foster parents collaborate with the other team members to ensure the child’s best interest.

11.5 Involvement in the Abuse and Neglect Proceeding

Unless they have intervened in the case, foster parents are not parties to the judicial abuse or neglect proceeding in a formal sense. They are, however, given notice of judicial reviews and permanency hearings and have a right to be heard at those reviews and hearings. Rule 10-104.1 ensures that foster parents are informed of this right:

In abuse and neglect proceedings, the department shall give notice of permanency hearings and periodic judicial review hearings to the child’s foster parents, preadoptive parents and relative care givers. The notice given shall expressly inform foster parents, pre-adoptive parents and relative care givers of their right to be heard at the permanency hearing or judicial review. Notice shall be served in the manner provided by Rule 10-104 NMRA, and a certificate of service shall be filed with the court.

Several sections of the Children’s Code also refer to the foster parent’s right to notice of the proceedings. For example, §32A-4-27(F) provides:

The foster parent, preadoptive parent or relative providing care for the child shall be given notice of, and an opportunity to be heard in, any review or hearing with respect to the child, except that this subsection shall not be construed to require that any foster parent, preadoptive parent or relative providing care for the child be made a party to such a review or hearing solely on the basis of the notice and opportunity to be heard.

Other provisions of the law include:

- §32A-4-20(C): Foster parents shall be given notice and an opportunity to be heard at the dispositional phase.
- §32A-4-25(C), (D): The children’s court attorney shall give notice to all parties, including the child by and through the child’s guardian ad litem or attorney, the child’s CASA, the local CRB, and the child’s foster parent or substitute care provider of the time, place, and purpose of any judicial review hearing. Anyone required to receive notice of judicial review hearings is entitled to present evidence and cross-examine witnesses.

Foster parents can ask to intervene to become a formal party in certain situations:

- §32A-4-27(A), (B): The court may permit intervention when the child has lived with the foster parents for at least six months and they file a motion for affirmative relief.
The court will consider their rationale for intervening and whether intervention is in the best interests of the child.

- §32A-4-27(E): The court must permit intervention if:
  - the foster parent desires to adopt the child;
  - the child has resided with the foster parent for at least six months within the year prior to the termination of parental rights;
  - a motion for termination of parental rights has been filed by a person other than the foster parent; and
  - bonding between the child and the foster parent is alleged as a reason for terminating parental rights in the motion for termination.

**A Foster Parent’s View:**

Foster parents advocate for the best interest of the child in all settings, from CRB meetings to medical evaluations. While a foster parent does not independently determine the most appropriate treatment for a child, the information they can contribute about the child provides valuable insight into the child’s needs.

As foster parents, individuals must serve as advocates for a swift and timely move towards permanence for the child. In many cases, this involves working closely with biological families. Foster parents serve as a model for biological parents with respect to parenting skills, disciplining techniques, establishing a nurturing environment, and approaches to problem-solving. They need to collaborate in a non-judgmental manner with these families to improve their skills and facilitate a safe return of the child. The child’s treatment team members and CYFD staff are urged to support this collaborative relationship.