

CHILDREN AND FAMILIES

CHILD FATALITY AND NEAR FATALITY REVIEW BOARD

Child Fatality and Near Fatality Review Board Rules

Proposed Readoption with Amendments: N.J.A.C. 10:16

Authorized By: The Child Fatality and Near Fatality Review Board, Dr. Anthony V. D'Urso, PsyD., Chairman.

Authority: N.J.S.A. 9:6-8.88 through 9:6-8.96.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-219.

Submit written comments by February 13, 2015, to:

Brian Ross, Director

Office of Policy and Regulatory Development

Department of Children and Families

PO Box 717

Trenton, New Jersey 08625

or rules@dcf.state.nj.us

The agency proposal follows:

Summary

As the Department of Children and Families (Department) has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to N.J.S.A. 52:14B-5.1.c(2), N.J.A.C. 10:16, Child Fatality and Near Fatality Review Board Rules is scheduled to expire on May 4, 2015. The Child Fatality and Near Fatality Review Board has reviewed these rules and has determined that, as amended, they continue to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

These rules were last readopted effective November 5, 2007 (see 39 N.J.R. 4846(a)).

The Child Fatality and Near Fatality Review Board is responsible for case review of child fatalities and near fatalities in order to identify and determine their cause, their relationship to governmental support systems, and methods of prevention.

The rules proposed for readoption were developed by the Child Fatality and Near Fatality Review Board in response to provisions contained in N.J.S.A. 9:6-8.88 through 9:6-8.96, the Comprehensive Child Abuse Prevention and Treatment Act (CCAPTA). CCAPTA establishes the Child Fatality and Near Fatality Review Board (Board) and requires that this chapter be developed. Input was provided by Deputy Attorneys General, Child Fatality and Near Fatality Review Board members, New Jersey Task Force on Child Abuse and Neglect members, and community members.

A summary of the rules proposed for readoption follows:

Proposed [N.J.A.C. 10:16-1.1](#) states the purpose of the chapter.

Proposed [N.J.A.C. 10:16-1.2](#) states the scope of the chapter.

Proposed [N.J.A.C. 10:16-1.3](#) defines various terms used throughout the chapter.

Proposed [N.J.A.C. 10:16-2.1](#) states the purpose of the Board.

Proposed [N.J.A.C. 10:16-2.2](#) states the composition of the Board and length of terms of its members.

Proposed N.J.A.C. 10:16-2.3 states the staff and information that the Department, the Division, and the State Medical Examiner shall provide to the Board.

Proposed N.J.A.C. 10:16-2.4 states the case related materials that shall be provided to the Board.

Proposed N.J.A.C. 10:16-2.5 states the purpose of the Board's meetings and requires the Board to establish a regular schedule of meetings.

Proposed N.J.A.C. 10:16-2.6 requires the Board to keep certain types of files.

Proposed N.J.A.C. 10:16-3.1 states the types of cases that may receive a full review by the Board or a community-based team.

Proposed N.J.A.C. 10:16-3.2 states the requirements for a full review by the Board and/or a community-based team.

Proposed N.J.A.C. 10:16-3.3 permits the Board to establish community-based teams and defines the number and composition of the community-based teams.

Proposed N.J.A.C. 10:16-4.1 states the powers of the Board.

Proposed N.J.A.C. 10:16-4.2 indemnifies members of the Board and community-based teams.

Proposed N.J.A.C. 10:16-5.1 states the timing of the Board's annual report.

Proposed N.J.A.C. 10:16-5.2 states the content of the Board's annual report.

The Board proposes to amend the definition of "governmental support systems" at N.J.A.C. 10:16-1.3 to remove reference to the Office of Child Advocate, as such office no longer exists. The Board proposes to delete N.J.A.C. 10:16-2.2(a)1vi, which identifies the Office of Child Advocate or designee as a mandatory member of the Board, to conform to P.L. 2012, c.

16, which removed the Office of Child Advocate from those required to serve on the Board. See N.J.S.A. 9:6-8.89.

The Child Fatality and Near Fatality Review Board has proposed technical amendments throughout these rules to correct references to the Division of Child Protection and Permanency (Division), previously the Division of Youth and Family Services, and the Department of Health, previously the Department of Health and Senior Services.

Social Impact

The State legislature had a strong concern over child deaths in New Jersey as evidenced by several previous efforts to establish a venue for the examination and evaluation of child death incidents prior to the CCAPTA legislation. General concern over the safety and protection of children, strengthening families, and improving the delivery of child protective services are some of the social conditions and attitudes that precipitated the CCAPTA.

The Child Fatality and Near Fatality Review Board will review fatal and near fatal incidents involving children known and unknown to the Division of Child Protection and Permanency (Division). This broader review will provide critical information for future prevention efforts.

The loss of life or near fatal injury of a child due to any cause is a loss to society that is beyond measure. The potential financial, scientific, cultural, and altruistic contributions of the child to society will never be regained. The deliberations of the Board are expected to heighten the public's awareness of child fatalities and near fatalities and direct activity towards the prevention of child fatalities and near fatalities and building supports for families.

These rules have not previously been a source of significant controversy, and the Child Fatality and Near Fatality Review Board and the Department of Children and Families expect that the rules proposed for readoption with amendments will be favorably received.

Economic Impact

The Department of Health, the Department of Children and Families, Attorney General, State Police, State Medical Examiner, Child Advocate, and the New Jersey Task Force on Child Abuse and Neglect will incur intangible expenses due to representatives serving on the Board ex officio.

A positive aspect of the economic impact for the Division of Child Protection and Permanency comes from the Federal Child Abuse Prevention and Treatment Act (CAPTA) in 42 U.S.C. § 5106a(a)(2)(A), which states that grants will be made to States for improving the child protective services system in creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations. The rules proposed for readoption with amendments assist the Division in maintaining eligibility to receive Title IV-B grant money.

The direct costs of child maltreatment include the costs of child protection investigations, child welfare services to children in their own homes or out-of-home placements, and services to enhance permanency planning. Additional costs incurred include rehabilitative services for the children and their parents. In the most severe circumstances there are also the costs associated with civil litigation and criminal investigations and prosecution of perpetrators. The psychological and emotional trauma of child maltreatment represents immeasurable social costs to the current child victim, as well as to our future society. Tangible and intangible social savings

are expected based upon the anticipated expansion of our knowledge and understanding of child maltreatment due to the deliberations and activities of the Board.

The rules proposed for readoption with amendments have no financial impact upon Division clients.

Federal Standards Statement

The rules proposed for readoption with amendments comply with the Federal Child Abuse Prevention and Treatment Act in 42 U.S.C. § 5106a. The rules proposed for readoption with amendments do not exceed the Federal requirements. The Federal CAPTA does not require the State to establish a child fatality and near fatality review board. Federal CAPTA supports the development of such a board by requiring that child abuse and neglect information be shared with the review board if one is established by the state as stated in 42 U.S.C. § 5106a(b)(2)(A)(v)(IV).

Jobs Impact

The Department does not expect that the rules proposed for readoption with amendments will result in the generation or loss of any jobs.

Agriculture Industry Impact

The Department does not expect that the rules proposed for readoption with amendments will have an impact on the agriculture industry.

Regulatory Flexibility Statement

Neither the Department, Child Fatality and Near Fatality Review Board members, nor the Board's community-based teams, are considered a small business as defined in N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The rules proposed for readoption with amendments do not impose reporting, recordkeeping, or compliance requirements on small businesses. Therefore, a regulatory flexibility analysis is not necessary.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the organization, functions, and activities of the Board, which investigates child fatalities and near fatalities.

Smart Growth Development Impact Analysis

The Department does not expect the rules proposed for readoption with amendments will have an impact upon smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the organization, functions, and activities of the Board, which investigates child fatalities and near fatalities.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:16.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. INTRODUCTION AND OVERVIEW

10:16-1.2 Scope

(a) These rules apply to:

1. - 2. (No change.)

3. Each representative of the Department of Children and Families and the Division of [Youth and Family Services] **Child Protection and Permanency**;

4. -5. (No change.)

10:16-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings:

...

"Division" means the Division of [Youth and Family Services] **Child Protection and Permanency** in the Department of Children and Families.

...

"Governmental support systems" means public entities providing services to children and their families, including, but not limited to, the Division of [Youth and Family Services] **Child Protection and Permanency** and other agencies within the Department of Children and Families, the Department of Health [and Senior Services], the Office of the Attorney General, **and** the Office of the Public Defender [and the Office of the Child Advocate].

...

SUBCHAPTER 2. GENERAL PROVISIONS FOR THE CHILD FATALITY AND NEAR
FATALITY REVIEW BOARD

10:16-2.2 Composition and terms

(a) CCAPTA, as stated in N.J.S.A. 9:6-8.89, designates the members of the Board as follows:

1. The Board shall consist of the following members, who shall serve ex officio:

i. (No change.)

ii. The Commissioner of Health [and Senior Services], or designee;

iii. The Director of the Division of [Youth and Family Services] **Child Protection
and Permanency**, or designee;

iv. - v. (No change.)

[vi. The Child Advocate or designee;]

Recodify existing vii-viii as **vi-vii** (No change in text.)

2. (No change.)

(b) - (c) (No change.)

10:16-2.3 Provision of staff and information to the Board

(a)-(c) (No change.)

(d) Upon request, the Department of Health [and Senior Services] shall notify the Board of any child fatality.