

**CHAPTER 16****DEPARTMENT OF CHILDREN AND FAMILIES  
CHILD FATALITY AND NEAR FATALITY  
REVIEW BOARD****Authority**

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

**Source and Effective Date**

R.2007 d.347, effective November 5, 2007.  
See: 39 N.J.R. 9(a), 39 N.J.R. 4846(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 16, Department of Children and Families Child Fatality and Near Fatality Review Board, expires on May 4, 2015. See: 46 N.J.R. 2391(a).

**Chapter Historical Note**

Chapter 16, Department of Human Services Child Death and Critical Incident Review Board, was adopted as R.1992 d.513, effective December 21, 1992. See: 24 N.J.R. 3506(a), 24 N.J.R. 4536(a). Pursuant to Executive Order No. 66(1978), Chapter 16 expired on December 21, 1997.

Chapter 16, Department of Human Services Child Death and Critical Incident Review Board, was readopted as R.1998 d.83, effective February 2, 1998. See: 29 N.J.R. 3970(a), 30 N.J.R. 542(a).

Chapter 16, Department of Human Services Child Death and Critical Incident Review Board, was repealed by R.2001 d.444, effective December 3, 2001. See: 32 N.J.R. 3919(a), 33 N.J.R. 4135(a).

Chapter 16, Department of Children and Families Child Fatality and Near Fatality Review Board, was adopted as new rules by R.2007 d.347, effective November 5, 2007. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 16, Department of Children and Families Child Fatality and Near Fatality Review Board, was scheduled to expire on November 5, 2014. See: 43 N.J.R. 1203(a).

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**SUBCHAPTER 1. INTRODUCTION AND OVERVIEW****10:16-1.1 Purpose**

The purpose of this chapter is to describe the organization, functions and activities of the Child Fatality and Near Fatality Review Board, in the New Jersey State Department of Children and Families, as well as the efforts of the Department to support the Board.

**10:16-1.2 Scope**

(a) These rules apply to:

1. Each member of the Child Fatality and Near Fatality Review Board;
2. Each member of the Board's local or regional community-based teams, if it chooses to establish such teams;
3. Each representative of the Department of Children and Families and the Division of Youth and Family Services;
4. The State Medical Examiner; and
5. Any other person participating in the Board's functions and responsibilities.

**10:16-1.3 Definitions**

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

"Board" means the Child Fatality and Near Fatality Review Board.

"Casework supervisor" means a Supervising Family Service Specialist I whose job responsibility includes, but is not limited to, supervising subordinate supervisors in the delivery of protective and child welfare services in the Division.

"Child" means any person under the age of 18.

"Child abuse and neglect" means the same as the definition of "abused or neglected child" at N.J.A.C. 10:133-1.3.

"CCAPTA" means New Jersey Comprehensive Child Abuse Prevention and Treatment Act, N.J.S.A. 9:6-8.88 et seq.

"Department" means the Department of Children and Families.

"Division" means the Division of Youth and Family Services in the Department of Children and Families.

"Fatality" means death.

“Full review” means a review of all available case-related material by the Board or its local or regional community-based team at a duly convened meeting.

“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 and other agencies within the Department of Children and Families, the Department of Health and Senior Services, the Office of the Attorney General, the Office of the Public Defender and the Office of the Child Advocate.

“Near fatality” means a serious or critical condition, as certified by a physician, in which a child suffers either a permanent mental or physical impairment, a life-threatening injury or a condition that creates a probability of death within the foreseeable future.

“Team” means a local or regional community-based team established by the Child Fatality and Near Fatality Review Board.

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

### 10:16-2.1 Purpose of the Board

(a) CCAPTA states the several part purpose of the Board as follows:

1. The Board shall review fatalities and near fatalities of children in New Jersey in order to:
  - i. Identify their causes, their relationship to governmental support systems, as determined relevant by the Board, and methods of prevention;
  - ii. Describe trends and patterns of child fatalities and near fatalities in New Jersey;
  - iii. Identify risk factors and their prevalence in child fatalities and near fatalities;
  - iv. Evaluate the response of the government support system to children in families who are considered to be at high risk and to offer recommendations for improvement in those responses;
  - v. Identify high risk groups relative to child abuse and neglect, or fatality, in terms that are compatible with the development of public policy;
  - vi. Improve the sources of data collection by developing protocols for autopsies, death investigations, and the complete recording of cause of death on the death certificate;
  - vii. Provide case consultation to individuals or agencies represented by the Board; and

viii. Make recommendations for system-wide improvements in services to prevent fatalities and near fatalities among children;

2. The Board shall identify the fatalities of children due to unusual circumstances when:

- i. The cause of death is undetermined;
- ii. Substance abuse may have been a contributing factor;
- iii. Homicide is the result of child abuse or neglect;
- iv. Child abuse or neglect may have been a contributing factor;
- v. There is malnutrition, dehydration, or medical neglect or failure to thrive;
- vi. There is sexual abuse;
- vii. There is head trauma, fractures or blunt force trauma without obvious innocent reason, such as auto accidents;
- viii. There is suffocation or asphyxia;
- ix. There are burns without obvious innocent reason such as auto accident or house fire;
- x. There is a suicide;
- xi. Sudden Infant Death Syndrome (SIDS) is suspected; and
- xii. Sudden Unexplained Death Syndrome (SUDS) is suspected; and

3. The Board shall also identify a fatality or near fatality of any child whose family, currently, or within the last 12 months, was receiving services from the Division.

### 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. The Commissioner of Children and Families, or designee;
  - ii. The Commissioner of Health and Senior Services, or designee;
  - iii. The Director of the Division of Youth and Family Services, or designee;
  - iv. The Attorney General, or designee;
  - v. The Superintendent of the State Police, or designee;
  - vi. The Child Advocate or designee;
  - vii. The State Medical Examiner; and

viii. The Chairperson or Executive Director of the New Jersey Task Force on Child Abuse and Neglect; and

2. There also shall be six public members appointed by the Governor, including:

i. A representative of the New Jersey Prosecutors' Association;

ii. A Law Guardian;

iii. A pediatrician with expertise in child abuse and neglect;

iv. A psychologist with expertise in child abuse and neglect;

v. A social work educator with experience and expertise in the area of child abuse or a related field; and

vi. A person with expertise in substance abuse.

(b) Of the public members first appointed, three shall serve for a period of two years and three shall serve for a period of three years; thereafter, public members shall serve for a period of three years.

(c) The Governor shall appoint a public member to serve as chairperson of the Board.

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

(a) The Department shall dedicate professional staff to the Board to carry out its duties.

(b) The State Medical Examiner shall notify the Board of each child fatality.

(c) The Division shall notify the Board, and forward to the Board a copy of the case-related material, of each fatality and near fatality among children whose family, currently or within the last 12 months, was receiving services from the Division, as well as each child fatality where the Division has reason to believe that child abuse or neglect may have been a contributing factor.

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

#### **10:16-2.4 Division case-related material**

(a) Case-related material shall include, as applicable, the following documents:

1. The child's case record with the Division;

2. Copies of Division Service Information System and NJ SPIRIT data;

3. Police, prosecutor, fire, physician, psychologist, psychiatric and hospital records, as applicable and permissible; and

4. Autopsy results and death certificate, when available.

(b) Case-related material shall also include information about:

1. The child and his or her family and household;

2. The nature and circumstances of the incident;

3. The nature of Division or Department involvement with the child, family, or household;

4. A summary of Department or other agency responses to the death or incident;

5. A summary of the circumstances leading to the child's death or the incident; and

6. Recommendations regarding the family, the alleged perpetrator, and Division or Department operations.

#### **10:16-2.5 Meetings**

(a) The Board shall establish a schedule for regular meetings for itself and its local or regional community-based teams. Additional meetings may be scheduled at the discretion of the chairperson.

(b) The purpose of the meetings is to:

1. Identify all cases referred to the Board according to the criteria in N.J.A.C. 10:16-2.1(a)1 and 2;

2. Determine each case that shall receive a full review by the Board and local or regional community-based team appointed by the Board;

3. Conduct full case reviews or review reports received from the local or regional community-based teams; and

4. Conduct any other business necessary to carry out the overall purpose of the Board, as listed in N.J.A.C. 10:16-2.1.

#### **10:16-2.6 Files**

(a) The Board shall record the name, age, date of birth, place of death or pronouncement of death, date and time of death, and circumstances surrounding the death in a confidential master file.

(b) The Board shall record the name, age, date of birth, place of incident, and circumstances surrounding the near fatality in a confidential master file.

(c) The confidential master file shall be the only file maintained by the Board that contains the name of the child and shall not be subject to discovery.

(d) Consistent with N.J.S.A. 9:6-8.10a(d), information in the confidential master file may be used by the chairperson of the Board to refer an individual case, including the Board's deliberations and conclusions, to an appropriate agency

engaged in a bona fide research purpose, provided, however, that no names, or other information identifying persons named in the file shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his or her designee shall first have been obtained.

(e) Except as provided in (d) above, the deliberations and conclusions of the Board and its local or regional community-based teams, related to a specific case, shall be confidential.

### SUBCHAPTER 3. FULL REVIEW

#### 10:16-3.1 Types of cases receiving full review

(a) The Board or its local or regional community-based teams may conduct a full review of each of the following situations:

1. Each fatality and near fatality of a child whose family, currently, or within the last 12 months, was receiving services from the Division;
2. Each child fatality where information available to the Board indicates that child abuse or neglect may have been a contributing factor; and
3. Any other child fatality or near fatality identified by the Board as significant to determining appropriate governmental supports and methods of prevention.

#### 10:16-3.2 Requirements for full reviews

(a) Once the Board determines that a case is appropriate for a full review, it will establish a time frame within which the full review and a corresponding summary record containing findings and recommendations shall be completed.

(b) The Board will complete the full review and summary record itself, or, at its discretion, assign these functions to a local or regional community-based team, as described in N.J.A.C. 10:16-3.3.

(c) The summary records that are prepared by the Board and local or regional community-based teams on each reported case shall be free of information that would identify the child.

(d) The deliberations and conclusions of the Board and local or regional community-based teams shall not supersede or replace the conclusions or opinions of any agency that contributes information from its own records.

#### 10:16-3.3 Local or regional community-based teams

(a) The Board may establish local or regional community-based teams to complete the review of fatalities or near fatalities among children identified by the Board.

(b) If the Board chooses to establish local or regional community-based teams, each team will be formed with a dual function to review information regarding:

1. The fatality and near fatality of any child whose family, currently, or within the last 12 months, was receiving services from the Division and of any child fatality where information available to the Board indicates that child abuse or neglect may have been a contributing factor; and
2. Other child fatalities due to unusual circumstances.

(c) The Board may choose to establish more than two local or regional community-based teams.

(d) Each local or regional community-based team shall include, at a minimum:

1. A person experienced in prosecution;
2. A person experienced in local law enforcement investigation;
3. A medical examiner;
4. A public health advocate;
5. A physician, preferably a pediatrician; and
6. A casework supervisor from a Division local office.

(e) The local or regional community-based teams shall continue to function at the discretion of the Board.

### SUBCHAPTER 4. POWERS AND INDEMNIFICATION

#### 10:16-4.1 Powers of the Board

(a) The Board may subpoena and review records that pertain to the child, except as provided by any statute, regulation or Executive Order relating to the confidentiality of criminal investigations and criminal investigative files. Records subject to subpoena and review shall include, but are not limited to, private medical and hospital records, school records, mental health records, and other records that may be deemed pertinent to the review process and necessary for the formulation of a conclusion by the Board. Records obtained by the Board shall not be subject to subpoena.

(b) The Board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case.

(c) The Board may seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic, and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy; or other

related fields, if the facts of a case warrant additional expertise.

(d) If the Board has reasonable cause to believe that the death is the result of child abuse or neglect, or has reasonable cause to believe that the death is the result of an ongoing hazard to other members of the household, then the Board shall notify or shall verify that notification has been made to the Division, who in turn will contact the county prosecutor of the county wherein the death occurred or was pronounced.

(e) The Board may solicit and receive grants and other funds made available from a governmental, public, private, nonprofit, or for-profit agency, including funds made available under any Federal or State law, regulation or program.

#### 10:16-4.2 Immunity

A member of the Board and local or regional community-based team shall not be liable for any civil damages as a result of providing, in good faith, any reports, records, opinions or recommendations pursuant to N.J.S.A. 9:6-8.94.

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### SUBCHAPTER 5. ANNUAL REPORT

#### 10:16-5.1 Annual report

(a) The Board shall issue an annual report to the Governor and Legislature, covering its activities for the year.

(b) The Board shall make the annual report available to the public.

#### 10:16-5.2 Content of the annual report

(a) The Board's annual report shall include:

1. The number of child deaths, causes of death and trends among unusual deaths and near fatalities;
2. The number of cases reviewed and specific non-identifying information regarding cases of particular significance;
3. Risk factors and governmental systems available and/or responsible for support;
4. Recommendations for improving sources of data collection;
5. Recommendations for achieving better coordination and collaboration among State and local agencies; and
6. Recommendations for system-wide improvements in services to prevent fatalities and near fatalities among children.