

TITLE 395  
CHILDREN AND FAMILY SERVICES  
PROTECTION AND SAFETY

CHAPTER 9 ALTERNATIVE RESPONSE

These regulations implement Alternative Response as authorized and required by Neb. Rev. Stat. §§ 28-712 and 28-712.01 and contemplated by Neb. Rev. Stat. § 28-710.01.

9-001 DEFINITIONS:

Intake Accepted for Assessment means a report received by the Department Child Abuse and Neglect Hotline that creates concern for the safety of a child and includes information stated by the reporting party and collateral information gathered by the Department.

Alternative Response means a comprehensive assessment of (i) child safety, (ii) the risk of future child abuse or neglect, (iii) family strengths and needs, and (iv) the provision of or referral for necessary services and support that does not include an investigation or formal determination as to whether child abuse or neglect has occurred or the entry of the subject of the report into the central registry of child protection cases maintained pursuant to Neb. Rev. Stat. § 28-718. (Neb. Rev. Stat. § 28-710)

Traditional Response means an investigation by a law enforcement agency or the department pursuant to Neb. Rev. Stat. § 28-713 which requires a formal determination whether child abuse or neglect has occurred. (Neb. Rev. Stat. § 28-710)

Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual. (Neb. Rev. Stat. § 71-6721(3))

Household Member means any person who has significant in-home contact with a child and includes individuals who have a familial or intimate relationship with any person in the home.

Exclusionary Criteria means criteria which, if alleged or otherwise learned by the Department, automatically excludes an Intake Accepted for Assessment from eligibility for Alternative Response. Exclusionary Criteria include

- (1) physical abuse of a child (i) under the age of six involving an injury to the head or torso; or (ii) with a disability; or (iii) which resulted in serious bodily injury to a child as defined in Neb. Rev. Stat. § 28-109(20); or (iv) is likely to cause death or severe injury to a child;
- (2) domestic violence involving a caretaker AND the alleged perpetrator has access to the child or Caretaker;
- (3) sexual assault of a child as defined in Neb. Rev. Stat. §§ 28-319.01, 28-320.01 ;
- (4) sex trafficking of a minor as defined in Neb. Rev. Stat. §§ 28-830(14), 28-831(3);
- (5) sexual exploitation of a child as defined in Neb. Rev. Stat. § 28-707(d);
- (6) neglect of a child resulting in serious bodily injury as defined in Neb. Rev. Stat. § 28-109(20);
- (7) allegations require Child Advocacy Center, Law Enforcement, and Department coordination (Neb. Rev. Stat. § 28-728(3)(d)(iii));
- (8) a Household Member allegedly caused the death of a child;
- (9) a newborn whose urine or meconium has tested positive for alcohol AND whose Caretaker (i) has an alcohol addiction; or (ii) previously delivered a drug-exposed infant and did not successfully complete drug treatment; or (iii) did not prepare for the newborn's birth; or (iv) currently uses controlled substances as defined by Neb. Rev. Stat. § 28-401 or alcohol and breastfeeds or expresses intent to breastfeed; or (v) has no in-home support system or alternative primary care arrangements;
- (10) a Household Member uses or manufactures methamphetamine or other controlled substances as defined in Neb. Rev. Stat. §§ 28-401, 28-405;
- (11) a pregnant woman tested positive for methamphetamine or other controlled substance as defined in Neb. Rev. Stat. §§ 28-401, 28-405;

- (12) a child has had contact with methamphetamine or other controlled substance as defined in Neb. Rev. Stat. §§ 28-401, 28-405, including a positive meconium or hair follicle screen or test;
- (13) a child resides with a Household Member whose parental rights have been terminated or relinquished during a court-involved case;
- (14) abuse or neglect of a child who resides with (i) the subject of an active Traditional Response or (ii) an individual or family that is receiving services through the DCFS Protection and Safety section or (iii) an individual or family who is involved in juvenile court petition pursuant to Neb. Rev. Stat. § 43-247(3)(a);
- (15) child abuse or neglect has occurred in an out-of-home setting;
- (16) a Household Member has a prior court substantiated report of child abuse or neglect or is a sex offender;
- (17) a Household Member appears on the central registry of child protection cases under Neb. Rev. Stat. § 28-720;
- (18) a child under the age of two or at least two children under the age of five reside(s) with a Household member where the current maltreatment concerns are the same as prior maltreatment concerns included in an Intake Accepted for Assessment;
- (19) a child whose Caretaker's identity or whereabouts are unknown;
- (20) law enforcement has cited a Caretaker for the child abuse or neglect alleged in the Intake Accepted for Assessment; and,
- (21) the Department is made aware by law enforcement of an ongoing law enforcement investigation involving a Household Member.
- (22) a safety concern is otherwise identified which requires Department intervention within 24 hours.

Review, Evaluate, Decide (RED) Team means a team of staff within the Department that reviews and evaluates Intakes Accepted for Assessment that include at least one RED Team Criteria and no Exclusionary Criteria.

RED Team Criteria, means criteria which, if alleged or otherwise learned by the Department, requires RED Team review and evaluation to determine eligibility for Alternative Response. RED Team Criteria include:

- (1) a Caretaker has a significant mental health diagnosis AND the reporting party is a physician, mental health or other health care provider;
- (2) a Caretaker exhibits symptoms related to significant mental illness including but not limited to psychotic behaviors, delusional behaviors and danger to self or others;
- (3) a Caretaker is a current or former state ward;
- (4) the family has had another Intake Accepted for Assessment within the past six months AND includes two or more children under the age of five or one child under the age of two;
- (5) the family currently receives an Alternative Response;
- (6) Child abuse or neglect AND alcohol or other mood altering substance use by a Household Member AND there are two or more children under the age of five or one child under the age of two;
- (7) physical abuse that does not rise to the level of physical abuse identified in the Exclusionary Criteria;
- (8) a Household Member or alternate Caretaker has a history of using or manufacturing methamphetamine or other controlled substances as defined in Neb. Rev. Stat. §§ 28-401, 28-405.

## 9-002 RESPONSE ASSIGNMENT PROCESS

9-002.01 Screening: the Department will screen each Intake Accepted for Assessment for the presence of Exclusionary Criteria and each Intake Accepted for Assessment that includes no Exclusionary Criteria for the presence of RED Team Criteria.

9-002.02 RED Team Review: Within one regular business day after receiving an Intake Accepted for Assessment that includes RED Team Criteria, the RED Team will review and evaluate the Intake Accepted for Assessment to determine whether it is eligible for Alternative Response.

9-002.03 Response Eligibility: The Department will determine eligibility for Alternative Response based upon the presence or absence of Exclusionary Criteria and RED Team Criteria. If an Intake Accepted for Assessment includes

- (i) one or more Exclusionary Criteria, it is ineligible for Alternative Response;
- (ii) no Exclusionary Criteria and no RED Team Criteria, it is eligible for Alternative Response;
- (iii) one or more RED Team criteria and no Exclusionary Criteria, AND the RED Team reaches a unanimous decision that it is eligible for Alternative Response, it is eligible for Alternative Response.

9-002.04 Response Assignment: The Department will use a computerized randomization process to assign each Intake Accepted for Assessment that is eligible for Alternative Response to Alternative Response or Traditional Response. The Department will assign all other Intakes Accepted for Assessment to Traditional Response.

9-002.05 Reassignment from Alternative Response to Traditional Response: The Department will automatically transfer a family from Alternative Response to Traditional Response if (i) a safety threat is present that cannot be managed through an in-home safety plan; (ii) it cannot assess child safety; (iii) law enforcement notifies the Department that they will continue investigating the child abuse or neglect Intake Accepted for Assessment; (iv) the Caretaker receiving Alternative Response requests Traditional Response; or (v) it learns a Household Member allegedly caused the death of a child.

A family will not be reassigned to Traditional Response based upon the family's decision not to enroll or participate in Alternative Response services if the comprehensive assessment is complete AND child is determined to be safe.

If a family is reassigned to Traditional Response individuals may be subject to having their name placed on the Central Registry of Child Protection Cases. Individuals will receive written notice if their name is placed on the Central Registry of Child Protection Cases in accordance with Neb. Rev. Stat 28-713.01 (2).

### 9-003 ALTERNATIVE RESPONSE SERVICES AND INTERVENTIONS

9-003.01 The Department will assess each family assigned to Alternative Response for child safety and risk of future maltreatment. The family will be offered supports and services as available and appropriate.

9-003.02 The Department will assess child safety and the risk of maltreatment so long as a family participates in Alternative Response.

9-003.03 Participation in Alternative Response becomes voluntary once the Department completes the comprehensive assessment and determines that no safety concerns are present.

### 9-004 NOTICE AND APPEAL

9-004.01 Notice: The Department will provide written notice to families assigned to Alternative Response. This written notice will explain the Alternative Response process including assessment of safety and risk, criteria for reassignment of a family from Alternative Response to Traditional Response, and the family's rights to terminate participation in Alternative Response.

9-004.02 Grievance Process: Families receiving Alternative Response may file a grievance following the same grievance process available to families receiving Traditional Response pursuant to Neb. Rev. Stat. § 81-603.

Families may not grieve assignment or reassignment to Traditional Response or actions of any person not employed by the Department.

9-005 TERMINATION OF PARTICIPATION

9-005.01 Alternative Response terminates upon (i) reassignment of a family to Traditional Response; (ii) request of the Caretaker receiving Alternative Response after completion of the comprehensive assessment (Neb. Rev. Stat 28-710 & 28-712.01 (3)); or (iii) Closure of Alternative Response.

9-006 COLLECTION, SHARING AND REPORTING OF DATA

9-006.01 The Department will submit an evaluation report on the status of Alternative Response implementation to the Children's Commission as required by Neb. Rev. Stat. 28-712.01 (5) & 28-712 (2) & (3).