



**Best Practice Manual
and
Assessment Tool**
for New Mexico's District Courts and
Safe Exchange and Supervised Visitation
Service Providers

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I. Purpose of This Manual

This manual is intended to provide guidance in establishing and/or improving Safe Exchange and Supervised Visitation (SESV) services. It offers direction about implementing SESV services and best practices for providing services to families referred to the SESV program. Additionally, the manual was developed to help create a shared understanding of the SESV program and its essential components. This shared 'mental model' helps clearly define the vision and mission of the program and creates commonality of effort and purpose.

To develop this manual, extensive literature and document reviews were conducted to determine established best practices in other states and nations. Additionally, the New Mexico Administrative Office of the Courts (AOC) sponsored facilitated workgroup meetings with NM Court personnel and provider staff to develop an agreed-upon design and essential best practices for the manual. Facilitated meetings enabled AOC to develop a best practices manual through a consensus-building and stakeholder-driven strategic planning process.

The SESV framework described in this manual encompasses the essential processes and features needed to ensure safe and effective use of the SESV Program. It outlines a common framework and general best practice guidelines that are intended to strengthen the SESV program through shared support between District Courts, service providers, and the AOC, while still allowing each entity flexibility to be able to meet the needs of the population they serve. Additionally, this manual includes an assessment tool that is linked to these best practices and is designed to be used for continuous program planning and improvement. And finally, the best practices presented in this manual provide agreed-upon measures of success, practices, and data collection forms that will allow AOC more easily to provide oversight, technical assistance, and sustain best practices over time.

II. Program Overview

The New Mexico judiciary's SESV program provides children and their parents with a safe, nurturing environment for supervised visitation and safe exchange, allowing a child to maintain a relationship with his or her noncustodial parent without being placed in the middle of the parents' conflicts. In conjunction with the Courts, the New Mexico Administrative Office of the Courts (AOC) oversees the procurement and management of contracts between the Courts and SESV service providers.

In 2001, the New Mexico Legislature created a framework for the SESV program, relying on Court staff or contracted providers to deliver these services to families referred by the District Courts. The statute provides as follows:

NM State Statute

(A) A judicial district may establish a safe exchange and supervised visitation program by local court rule approved by the New Mexico Supreme Court. The safe exchange and supervised visitation program shall be used when, in the opinion of the court, the best interests of the child are served if confrontation or contact between the parents is to be avoided during exchanges of custody or if contact between a parent and child should be supervised. In a safe exchange and supervised visitation program, the district court may employ or contract with a person:

1. with whom a child may be left by one parent for a short period while waiting to be picked up by the other parent, or
2. to supervise visits among one or both parents and the child.

(B) A parent may request the services of the safe exchange and supervised visitation program or the court may order that the program be used.

(C) Parents shall pay the cost of the safe exchange and supervised visitation program pursuant to a sliding fee scale approved by the Supreme Court. The sliding fee scale shall be based on ability to pay for the service. The fees shall be paid to the district court to be credited to the fund.¹

What follows are excerpts from the Supreme Court Rule 1-125 that provide the foundation for supervised visitation and safe exchange services and provides the context for this manual.

Supreme Court Rule 1-125²

Excerpt from **Domestic Relations Mediation Act programs**

- A. Applicability.** This rule shall apply only to domestic relations proceedings which involve custody, periods of parental responsibility or visitation of minor children pending in a judicial district that has established a domestic relations mediation program, safe exchange program, or supervised visitation program pursuant to the Domestic Relations Mediation Act. This rule shall not apply to referrals to private programs by stipulation of the parties or preclude a court from operating a program for no fee.
- H. Safe exchange or supervised visitation programs.** The court may establish a safe exchange program or supervised visitation program under Section 40-12-5.1 NMSA 1978. The court may order the parties to use the services of a safe exchange program or supervised visitation program when the Court determines that the child's best interest will be served by avoiding contact or confrontation between the parents during exchanges of custody or by providing supervised contact between a parent and the child.

In the following section, the purpose and goals, as outlined in the *NM Court Standards for Safe Exchange & Supervised Visitation (NM Court Standards)*, are provided. Pertinent sections are excerpted from the whole document and shown as appropriate.

¹ Section 40-12-5.1(A)-(C), NMSA 1978, as amended.

² Supreme Court Rule 1-125, effective 1/7/13.

A. Program Purpose and Goals

The *NM Court Standards* were designed to clarify and set standards to accomplish the goals of the SESV programs.

<i>NM Court Standards for SESV³</i>
Excerpt from Preamble: The Safe Exchange and Supervised Visitation Program (Sec. 40-12-5.1, NMSA 1978) will offer safe, nurturing environments in judicial districts in New Mexico to conduct safe exchanges and supervised visitations between children and their parents and other family members.
Excerpt from Chapter 1: Purpose This document establishes minimum practice standards for professional safe exchange and supervised visitation services, as set forth in Chapter 40, Article 12 (NMSA 1978).

Additionally, through a series of workgroup meetings the Courts and SESV providers in New Mexico established the following goals, which this manual is designed to support:

- Children have a child-focused, neutral environment to visit with or be transferred to noncustodial parties
- Children have safe, conflict-free access to all parents
- Custodial parents do not have to communicate with person with whom he/she is in conflict
- Noncustodial parent can visit with his/her child without fear of an unfounded accusation by the custodial parent

B. SESV Services

Safe Exchange (SE)

The safe exchange service is designed so that the child is no longer exposed to parental conflict and no further harm or damage is done, by using a neutral location and person to do the exchange. For safe exchange, it is essential that the parties do not have opportunities to interact, which is done by thoughtful use of the facility, processes, and scheduling.

Supervised Visitation (SV)

For various reasons, a party may be ordered to have only supervised visitation with the child(ren). This action serves to ensure that what occurs during visitation is appropriate. Supervised visitation addresses the need to safeguard that parents do not have contact as well.

³ NM Court Standards, 2010, p. 1.

NM Court Standards for SESV⁴

Excerpt from **Chapter 7: Definitions**

- (27) **Safe exchange** means supervision of the transfer of a child from the custodial to the noncustodial parent at the beginning of the parent/child contact and return to the custodial parent at the end of the contact. The supervision is usually limited to the exchanges, with the remainder of the noncustodial parent/child contact unsupervised. Exchanges may be supervised on or off the site. A safe exchange may also be referred to as “exchange monitoring,” “supervised transfer,” “monitored exchange,” “safe exchange,” and “neutral drop-off/pick-up.”
- (31) **Supervised visitation** describes parent/child contact overseen by a third party. The term also includes contact between a noncustodial parent and one or more children in the presence of a third person, in which the only focus is the protection and safety of the child and adult participants.
- (11) **Group supervision** means supervision of parent/child contact in which more than one family is supervised by one or more visit monitors. Group supervision may also be referred to as “multiple family” supervision.
- (12) **Intermittent supervision** means parent/child contact in which a parent and child are supervised for part of the time and purposely left unattended by a visit monitor for certain periods of time.
- (15) **Off-site supervision** means supervision of parent/child contact that occurs away from a facility that is under the management of the provider.
- (16) **One-on-one supervision** means parent/child contact supervised by at least one visit monitor focused on overseeing that contact.
- (17) **On-site supervision** means supervision of parent/child contact at a facility that is under the management of the provider.
- (34) **Visit monitor** means a person who observes and oversees safe parent/child contact during visits and during exchanges from one parent to another. A visit monitor includes an independent contractor and any employee, trainee, intern, or volunteer of an agency provider. A visit monitor may also be referred to as a “child access monitor,” “observer,” or “visitation specialist.”

III. Manual Organization

The manual is divided into three parts and includes extensive appendices.

Part 1: Introduction and Overview

Part 1, Introduction and Overview, provides an introduction, context, and overview of the SESV program as well as the Best Practices Manual.

Part 2: Best Practices

Part 2, Best Practices, consists of four sections: Court-specific elements, provider-specific elements, Court-provider working relationship issues, and AOC responsibilities. Each of these sections includes three components.

⁴ NM Court Standards, pp. 11-13.

The first component includes appropriate citations from the Supreme Court Rule 1-125 (effective January 7, 2013) and the *NM Court Standards for SESV* (December 2010). This component is framed by the NM statute previously discussed, and provides the basic parameters of the program. The Supreme Court rule and *NM Court Standards for SESV* are also included in the appendices in their entirety. In the manual, the NM State law, Supreme Court rules, and *NM Court Standards for SESV* are presented in a box color coded and clearly labeled for each pertinent section.

The second and third components are the elements and actual Best Practices identified through the above-described manual development process. Each element is presented as a heading followed by the Best Practice content, which is the general body of the text. Additionally, other considerations that address the unique needs of the community or extend above and beyond Best Practices are sometimes also included and are expanded upon in the appendices.

Part 3: AOC Program Assessment

Part 3, AOC Program Assessment, provides an overview of the assessment process. The Assessment Tool can be found in the appendix.

Definitions

The language used in this manual is aligned with the *NM Court Standards*. Some terms are specific to a particular topic and are included in that section of the manual; others apply throughout the manual and are listed below. As a result, the items below and elsewhere are not necessarily listed in sequential number order.

NM Court Standards for SESV⁵

Excerpt from **Chapter 7: Definitions**

- (1) **Assessment** means a component of the planned change effort in which a mental health practitioner collaborates with the client to obtain information that provides the foundation for developing a plan of intervention.
- (2) **Authorized person** means a person approved by the Court, or by agreement of the parents and the provider, to be present during the supervised contact.
- (4) **Child** means a person under the age of eighteen. (NM Children’s Code, Sec. 32A-1-4, NMSA 1978)
- (5) **Client** means a child or parent or authorized person to whom services are rendered. See also “child,” “custodial parent,” and “noncustodial parent” in this chapter.
- (6) **Court** means the local district Court referring cases and who is party to the provider’s contract.
- (8) **Custodial parent** means a biological or adoptive parent, guardian, or State agency or its representative(s) that has temporary or permanent physical custody of a child. A custodial parent may also be referred to as a “residential” parent.
- (9) **Domestic violence** means any form of physical, sexual, verbal, emotional, or economic abuse inflicted on any person in a household by a family or household member.
- (10) **Evaluation** means a component of the planned change effort in which a mental health practitioner and the client assess the progress and success of the planned change effort.
- (14) **Noncustodial parent** means a biological parent or other adult who has supervised contact with a child. A noncustodial parent may also be referred to as a “visiting” or a “nonresidential” parent.
- (18) **Parent** means a biological mother, father, or other adult, including an adoptive parent, guardian, or State agency or its representatives. See also Sections (8) and (14) in this Chapter.
- (21) **Participant** means a client, authorized person, provider, agency staff, or other on-site person.
- (22) **Partner abuse** means a form of family violence involving abuse by one adult of another adult when they share an intimate relationship.
- (23) **Provider** means a professional person or agency, paid or unpaid, that is experienced in and trained to deliver safe exchange and supervised visitation services.
- (24) **Recommendation** means drawing conclusions and making statements about a professional opinion concerning future exchange and visitation arrangements or child custody determination services.
- (30) **Staff** means a person or group of persons, paid or unpaid, who are experienced in and trained to provide safe exchange and supervised visitation services.

Part 2: Best Practices

I. Court Specific Elements

As previously mentioned, the NM state statute provides the framework for judicial districts to establish and refer cases to SESV services. Three primary best practices relate solely to the Courts, consisting of referral criteria, Court orders, and judicial education.

Element #1: Referral Criteria

It is essential for each Court to have consistent referral criteria because not all SE and SV cases are the same. SESV services can be appropriate for many families coming before the Court; however, SESV should not be viewed as the solution to all family situations and circumstances. When referring a case to the SESV provider, the Judge or judicial officer should understand the dynamics of the case and the resources and limitations of the SESV provider.⁶ The referral criteria each Court develops should take into account the safety of the child and family, and the purpose of the SESV services.

Safety

The safety and needs of the child(ren) should be the central factor in the decision to utilize SE or SV services including, but not limited to the following factors:

- Child(ren): Risk of abduction, previous and current living arrangements, violence toward the child, witnessing of violence by the child, exposure to substance abuse or intoxication, and exposure to negative comments by one parent/family member against another.
- Parent: Risk of unsubstantiated allegations of physical abuse, substance abuse or resulting impairment, pending criminal charges, and interruption in relationship with the child(ren)
- Provider: Ability of the provider to address the risk of violence toward or harassment of staff.

Purpose of Service

SESV services should enable children to spend time with their noncustodial parents, promoting their relationship, while remaining safe and free from parental conflict, abuse, neglect, and domestic violence. When other services are available and ordered in conjunction with SE or SV services, the SESV services may often be a temporary rather than permanent solution. As part of the referral, the duration of services (e.g. months or years), and subsequent case review should also be considered by the Court.

Element #2: Court Orders

Court orders give the families and providers guidance and information that is critical to the delivery of services. Although the methods for issuing Court orders may vary across judicial districts, consistency should be established in two areas: the *content* of the Court order and the *method of delivery* to the provider.

Content

Certain specific information should be included in any Court order for SESV to establish that the provider has enough information to ensure safety when providing services.

⁶ Referrals to Supervised Visitation Programs: A Manual for Florida Judges. Maxwell and Oehme. 2004

Every order should include the following information:

- Case caption
- Name and birth year of each child
- Name of each parent
- SESV program contact information
- Name and address of child(ren)'s school or child care provider
- Expiration date of the order
- Date of review by the Court
- Statement: "Based upon a report from the provider, the Court may schedule a hearing to address unforeseen circumstances."
- Statement: "The parties are expected to follow the rules and policies of the SESV program."
- Designation of SE or SV services
- Conditions of parent-child contact
- Frequency and duration of contact (e.g. two hours per week)
- Allocation of required fees (in accordance with Supreme Court Rule 1-125), including fees for:
 - Intake
 - SE or SV Services
 - No show or late cancellations
 - Other fees (Breathalyzer, drug testing, etc.)
- Authorized visitors
- Unauthorized visitors
- Authorized observers (e.g. professionals such as mediators, guardians ad litem, counselors, etc.)
- A specific review date, unless the order requiring supervision is for a specified time period (e.g. 6-month order of protection)
- Other pertinent information, if available:
 - Copy of order(s) of protection or restraining order(s)
 - History of domestic violence
 - History of alcohol/drug abuse
 - Additional helpful details

The provider is expected first to refer to and follow the Court order, and then rely on provider policies and procedures based on the *NM Court Standards*.

Delivery Method

Establishing a consistent delivery procedure for the Court order is essential. The method of delivery used by the Court for its order for services should occur in a timely manner and with reliability to ensure safety for the child and victim of domestic violence.

Timely

What is considered timely will depend on the unique nature of each locale, and will be dependent on the Court's data entry or processing procedures. Each Court, preferably in collaboration with providers, should establish a maximum time frame within which the Court order will be provided to the provider. At a maximum, the order should be sent within seven days.

Reliability

It is essential for the provider to receive the Court order directly from the Court. Indirect delivery raises unnecessary safety risks resulting from issues such as outdated, incomplete, or even modified orders that may be provided by parents to service providers.

Direct delivery may take several forms such as e-mail, secure software systems, fax or postal mail. The intention is that the delivery method is direct and reliable both in what is delivered and that it is delivered. The Court should establish a standard delivery method for its case referrals, preferably in collaboration with the provider, to ensure that current orders are reliably received by the provider.

Element #3: Judicial Education

In order for each Court to make use of the SESV provider services in a beneficial fashion, the referring Courts must be aware of the service options and the benefits of referring families for services. Ongoing judicial education both for new and existing Judges and judicial officers is critical and may address the following components.

Service Options

Each Court may have service providers in their district that have limited service options based on circumstances such as hours of operation, location, staff skills, and staffing availability. The provider should ensure that information on service options is maintained, updated, and given to the Court. As previously discussed, Court orders are most effective when the Judge understands the program operations and policies. Judges can gain this knowledge in a number of ways, including working with the program to develop its SESV policies, periodically reviewing the policies, and visiting the program's facility to become more familiar with it.⁷

Benefits of Service

It is also crucial for the Courts to understand the benefits of referring families to SESV services. Some of these benefits include:

- Safe and stable, nurturing environment
- Objective reporting regarding the success/challenges with each exchange/visit
- Reduction in families returning to Court to resolve parental conflicts
- Safe contact between child(ren) and noncustodial parent when investigations/allegations are pending
- Potentially volatile situations in the community (e.g. park, fast food restaurant, grocery store, bar parking lot, etc.) diminished when services are provided in controlled, safe locations
- Ability to provide safe exchanges for child(ren) without involving law enforcement
- Use of a trailing docket (when a case is subject to periodic review) to ensure that follow-up occurs and is accomplished in an efficient way

SESV Use with Other Services

SESV services used in conjunction with other services may positively influence the effectiveness of services. SESV services are typically sought by parents and/or their attorneys because of their disputes. Some parties may benefit from participation in a parent education program or counseling to help each party understand the impact of their conflicts on the child(ren), and help them develop alternate strategies for addressing differences with the other party. Ordering parental education or counseling alongside SESV services may ultimately result in services no longer being necessary for that particular family. However, there may be cases, such as entrenched domestic violence, where other services – even SESV services – are not necessarily appropriate.

⁷ Referrals to Supervised Visitation Programs: A Manual for Florida Judges. Maxwell and Oehme. 2004.

Follow up and Compliance

A system to ensure that SESV cases are revisited by the referring Court and that noncompliance, when it occurs, is addressed will ensure the best use of resources. SESV services are usually ordered as a temporary solution. If a case is not revisited, this short-term solution could result in a long-term activity that may no longer serve its initial purpose. The use of trailing dockets (i.e. when a case is subject to periodic review) and status hearings can ensure cases are reviewed and the need for SESV services assessed. Additionally, the Court and provider could consider an agreed-upon maximum span of time (e.g. 5 years) with no Court activity, after which the provider would send a special report to the Court requesting the case be reviewed.

II. Provider Specific Elements

Provider specific elements are divided into three broader categories: safety and security, services, and principles of practice, for a total of fourteen elements in this section.

A. Safety and Security

Providing a safe environment for children, families, and staff is a priority and best practice for SESV providers. The specific elements addressed in this section include: staffing, premises, critical incidents, and high risk cases.

Below are excerpts from the *NM Court Standards* relevant to safety and security, providing the groundwork for the elements in this section.

NM Court Standards for SESV, 2010⁸

Excerpt from Chapter 2: Safe Exchange and Supervised Visitation Providers

- A. Professional safe exchange and supervised visitation services shall be provided by the staff of a free-standing agency or a subdivision or program of a larger agency that are qualified for and trained in the delivery of safe exchange and supervised visitation services.
- B. Providers shall offer only safe exchange and supervised visitation services that are consistent with the education, training, experience, and capacity of their staff and program.
- C. Providers shall ensure that their paid staff, volunteers, and interns who provide safe exchange and supervised visitation services are trained and qualified according to these Standards and other training materials approved by the AOC.

Excerpt from Chapter 4: Safety and Security Procedures

A. General Policy for Safety

Providers cannot guarantee safety. Adult clients remain responsible and accountable for their own actions. Providers shall have written policies and procedures through which they endeavor to ensure the safety and welfare of children and parents. Such policies and procedures shall be developed when possible with the assistance of local law enforcement officials and describe the emergency assistance and responses that can be expected from law enforcement. The central criterion of safety is matching the capacity of the provider, the service delivered, and the needs of and the risk(s) presented by the family.

NM Court Standards for SESV, 2010⁸

Excerpt from **Chapter 7: Definitions**

- (28) **Safety** means protection from danger or risk of physical, psychological, or emotional injury.
- (29) **Security** refers to measures put in place to effect safety.

Every service provider is located in a unique geographical and cultural setting that influences how SESV services are best provided in their community. However, despite the uniqueness of each service provider's locale, certain issues must be taken into consideration to ensure the safety and security of the child(ren), parents, and staff. The following provides a framework within which service providers can develop safe and secure programs while remaining responsive to the context of the community they serve.

Element #4: Staffing

NM Court Standards for SESV, 2010⁹

Excerpt from **Chapter 5: Program Responsibilities**

A. Role of the Provider

- (1) Providers shall only offer safe exchange and supervised visitation services and only serve the number of clients for which they have adequate financial and human resources;
- (2) Providers shall know and understand the scope of their services and the limitations of their role, and explain this role to parents and other users of the services; and
- (3) Providers shall regularly review the status of all open cases to monitor client compliance with the services rendered.

Excerpt from **Chapter 4: Safety and Security Procedures**

E. Staff-to-Child Ratio

Providers shall manage the monitor-to-child ratio as appropriate to meet the risk needs in each case. When more than one child is a party to a visit or exchange, providers shall consider assigning more than one monitor to the family.

⁹ NM Court Standards for SESV, 2010, pp. 2, 4-5, 12-13.

Excerpt from **Chapter 3: Provider Staff Qualifications and Training**

A. Staff Qualifications

(1) **Background Checks and Screening**

Applicants for both paid and unpaid positions shall complete a national criminal background check and clearance before the provider makes a final decision to hire the applicant. Current provider staff shall complete a national criminal background check and clearance at three-year intervals after the initial hiring date. Trained staff that leave an agency and are rehired after an absence of 180 days or more shall complete a national criminal background check and clearance before the final decision to rehire the applicant.

(2) **Minimum Qualifications**

Staff for both paid and unpaid positions shall meet the following minimum qualifications:

- (a) Be at least 18 years of age;
- (b) Have no conviction of child molestation, child abuse, or other crime relating to children;
- (c) Have no conviction during the last five years of a violent crime or probation or parole for conviction of a violent crime; and
- (d) Have no civil or criminal restraining order during the last five years relating to domestic matters or domestic violence issued against the person that would indicate an inappropriate level of risk.

(3) **Special Qualifications**

A provider transporting a client shall:

- (a) Hold a valid New Mexico operator's license and vehicle registration that are appropriate for the vehicle being used;
- (b) Have or be employed by the person or entity that has liability insurance for the vehicle being used;
- (c) Ensure the vehicle is equipped with seat belts and child restraints in accordance with State law; and
- (d) Have no conviction for the last five years of operating a motor vehicle while under the influence of alcohol or drugs.

(4) **Language Access**

Providers shall be able to communicate and understand the language being used by the parent and the child being supervised. If the exchange or visit monitor cannot communicate and understand the language being used by the parent and the child, the parent and child must be assisted through use of a neutral interpreter who is at least 18 years old.

Excerpt from **Chapter 7: Definitions**

(20) **Parent coached visitation** means contact between a parent and one or more children in the presence of a third person, in which the supervisor is actively involved in promoting behavioral change in parent/child relationships. Parent coaching may also be referred to as visitation that is "directed," "educational," "facilitated," "supportive supervision," or as "parent modeling."

(32) **Therapeutic supervision** means conjoint parent/child therapy conducted by a licensed or certified mental health professional who is also trained to provide supervised visitation. Therapeutic supervision may also include a student or intern in training for a postgraduate degree who is under the direct supervision of a licensed or certified mental health professional.

The SESV program’s staffing should be considered carefully to ensure safety of the child(ren), the parties involved, as well as the provider. Each provider may address staffing issues in different ways, but two primary considerations should be addressed: number of staff and staff qualifications.

Number of Staff

When determining the number of staff members on premises to provide services, the provider should carefully consider both the need to maintain safety and the need to provide adequate supervision. Some providers may choose to have at least two staff members on site at all times, thus ensuring that no one will have to handle a difficult situation alone. On the other hand, a provider may address this issue through arrangements made with another agency, such as a security agency or the local police department. Ultimately, the providers must consider their own unique situation and the number of staff necessary to ensure safety.

Staff Qualifications

It is essential that staff be sufficiently prepared to deliver services, including both following standard provider procedures and practices, and also addressing unforeseen or critical incidents. The service provider is responsible for identifying the necessary qualifications and systematically addressing and updating those needs. Each provider will address staff preparation in a way that works best for their setting, education and training. One provider may primarily utilize mentoring, while another may supply formal training for their staff. Whatever system the provider chooses it is essential that staff have the needed qualifications. Additional best practice recommendations for staff training are discussed later in this manual under the element “Staff Training and Supervision.”

Element #5: Premises
NM Court Standards for SESV, 2010¹⁰
Excerpt from Chapter 4: Safety and Security Procedures B. Premises Providers shall design the physical layout of the premises for on-site safe exchange and supervised visitation services to protect the safety and security of participants.
Excerpt from Chapter 4: Safety and Security Procedures G. Security Personnel Providers who employ or contract with security personnel shall ensure that security personnel are trained for the functions they deliver and have their own liability insurance.

Every program’s facility, premises and property are unique. The provider must take into consideration both the internal and external safety of their premises. When considering the use of the premises, the following should be taken into account simultaneously to establish appropriate processes to ensure safety.

Mode of arrival/departure. The way parties arrive – via car, bus, or on foot – may determine the direction from which each party will approach the facility, as well as the time of each person’s arrival and departure. The provider must also consider where parties will park and enter the building.

¹⁰ NM Court Standards for SESV, 2010, pp. 3-4.

Time of arrival/departure. The time of arrival/departure of a party also needs to be carefully considered to ensure safety for children and victims of domestic violence. Scheduling parties' arrival and departure either earlier before or later after the appointment time can help limit exposure to the other party in the case.

Parking and entrances. The location of parking and entrances should also be taken into consideration when deciding which parties use those entrances. If possible, best practices suggest that separate parking lots and entrances be used for noncustodial and custodial parents.

Internal use of space. Additionally, the internal use of space must be considered to ensure the safety of all parties involved. The provider must carefully plan for general safety as well as safety issues unique to the SESV program.

In order to maintain a safe and secure site, the Council on Accreditation¹¹ recommends that:

- the provider site has safety features in place that address the level of risk of the cases served, and staff inspects any items brought in by children, parents, or caregivers
- visitation and waiting areas are child-proofed and free of potential safety hazards
- when possible, the physical layout allows for separation between visiting and custodial parents.

Providers have the flexibility to use different types of safety features. Some examples of safety features include, but are not limited to the use of security officers, metal detectors, automatic locking doors, panic buttons, cameras, intercom systems, and adequate interior and exterior lighting for the facility, and perhaps even breathalyzers.

Element #6: Critical Incidents

NM Court Standards for SESV, 2010¹²

Excerpt from **Chapter 4: Safety and Security Procedures**

F. Critical Incidents

Providers shall have written policies and procedures that address critical incidents including documentation, reports to the Court and other agencies as needed, and immediate actions to take when trying to resolve the incident.

Excerpt from **Chapter 7: Definitions**

(7) **Critical incident** means an occurrence involving a client that threatens the safety or results in the injury of a participant that requires the intervention of a third party such as child protective services or the police. A child that accidentally trips and scrapes his/her knee does not constitute a critical incident.

Critical incidents include extreme, out of the ordinary incidents that require a call to the police or New Mexico Children, Youth & Families Department. When a critical incident has occurred, providers should submit a special report to the Court requesting guidance regarding the case.

Providers should consider possible critical incidents, such as the scenarios described below, and create a protocol for addressing these types of issue. Additionally, it is helpful for providers to practice the protocol by conducting regular critical incident drills much like schools conduct

¹¹ Council on Accreditation. "Supervised Visitation and Exchange Services," 2014, p. 14.

¹² NM Court Standards for SESV, 2010, pp. 4, 11.

fire drills to ensure everyone knows how to respond appropriately.

Critical Incident Scenario	Considerations for Provider Policies and Procedures
The custodial parent comes to pick up the child and appears to be drunk.	Liability issues Emergency contacts Relationship with law enforcement Special report to Court
A child confides in the provider that he saw his mother punch his sibling in the stomach.	Required reporting to CYFD Special report to Court

Incidents that do not qualify as critical incidents, but are nonetheless out of the ordinary should be reported in the routine status report. Additionally, an internal reporting system for incidents that include injury may be needed for liability reasons. Providers should verify their agency's insurance requirements, and ensure that their own policies and procedures address the liability requirements.

Element #7: High Risk Cases

NM Court Standards for SESV, 2010¹³

Excerpt from **Chapter 4: Safety and Security Procedures**
I. High Risk Cases of Child Sexual Abuse and Domestic Violence
 (1) Child Sexual Abuse
 Providers shall have written policies and procedures to provide for the safety of child and adult participants in the supervision of cases in which sexual abuse allegations or findings have been made.
 (2) Domestic Violence
 Providers shall have written policies and procedures to provide for safety of child and adult participants in the supervision of cases in which domestic violence allegations or findings have been made.

High risk cases are those with allegations of sexual abuse and/or domestic violence. SESV services should enable children to spend time with their noncustodial parents, promoting their relationship, while remaining safe and free from parental conflict, abuse, neglect, and domestic violence. Maintaining safety and security, as previously discussed, is of utmost importance in the SESV program.

Providers may also decline to accept a case if they determine that the case imposes risks that they are unable to manage. A special report should be submitted by providers to the Court to explain these circumstances.

Further suggestions (adapted from best practice suggestions of the New Hampshire Commission on Domestic and Sexual Violence)¹⁴ for ensuring safety in high risk cases are

¹³ NM Court Standards for SESV, 2010, p. 5.

¹⁴ Governor's Commission on Domestic and Sexual Violence: Supervised Visitation in New Hampshire: Domestic Violence. 2009, pp. 20-21.

listed below:

- Create time intervals (such as 15 minutes) between the custodial and noncustodial parents' arrival and departure to and from the provider location, with the noncustodial parent being the waiting parent.
- Allow the noncustodial parent to build a positive relationship with the child(ren) and create a pleasant experience for the children. The visits should be free from anger and unkind remarks.
- Do not allow supervising staff or the children to be used to gather information about the other parent. The visiting parent should not talk about the other parent during the visitation.
- Do not allow discussion of the Court case or possible outcomes. It can be very stressful for the children to hear about the Court case or future visitation and custody.
- Do not pass or allow the children to pass information, personal possessions, papers, or child support payments to the other parent.
- Do not allow visits to happen when the visiting parent appears to be under the influence of alcohol or illegal drugs. If the visiting parent has a history of drug or alcohol abuse, let them know in advance that you will not let them in for a visit if this happens.
- Do not allow aggressive behavior such as spanking, pinching, tickling too hard, or playing too rough. Other unacceptable behavior may include yelling and screaming; calling the children names or making fun of the children; blaming and accusing the children. It can also include threatening the children with physical harm to his or her loved ones and pets. It is also inappropriate to threaten the children with abandonment or loss of home, friends, or pets.
- If the child(ren) seems to be afraid or upset, and you do not know the cause, you may be able to help by suggesting a change in the conversation or activity.

New Mexico law requires that everyone must report suspected child abuse or neglect. (NM Children's Code Sec. 32A-4-3) A person does not have to witness child abuse to report it. If unsure whether to make a report, call the abuse hotline number below and a social worker will help. **TO REPORT CHILD ABUSE AND NEGLECT CALL #SAFE (#7233) from a cell phone or 1-855-333-SAFE.**

B. Services

The specific elements addressed in this section include: intake and orientation, risk assessment, case staffing and review, observation notes, staff training and supervision, exchange and visit management, and collaboration and coordination.

Element #8: Intake and Orientation

Supreme Court Rule 1-125¹⁵

Domestic Relations Mediation Act programs

I. Sliding fee scales.

- (1) Any party who is ordered to participate in a domestic relations mediation program, safe exchange program, or supervised visitation program under this rule shall pay a fee in accordance with a sliding fee scale under Section 40-12-5 NMSA 1978 or Section 40-12-5.1 NMSA 1978. Any fees payable under this rule may be reallocated between the parties in the district court's discretion as appropriate. If a district court elects to operate a domestic relations mediation program, safe exchange program, or supervised visitation program under this rule, either in-house with court staff or by contracting with an outside service provider, the court shall submit a proposed sliding fee scale to the Supreme Court for its approval. Nothing in this rule shall preclude a court from operating a program for no charge.
- (2) When submitting a proposed sliding fee scale for the Supreme Court's consideration, the district court shall do the following:
 - (a) provide the Supreme Court with detailed information regarding the costs incurred by the district court for operating an in-house program or contracting with an outsider service provider to provide services under this rule;
 - (b) explain how the district court arrived at the cost it proposes to charge each party receiving services from the domestic relations mediation program, safe exchange program, or supervised visitation program;
 - (c) submit a separate sliding fee scale for each type of program services the court elects to provide under Paragraphs C, D, E, or H of this rule;
 - (d) structure the proposed sliding fee scale based on the party's gross income and proportionate ability to pay; and
 - (e) if the Supreme Court approves the proposed sliding fee scale, the district court shall post the sliding fee scale in the courthouse and on the court's web site.

NM Court Standards for SESV, 2010¹⁶

Excerpt from **Chapter 4: Safety and Security Procedures**

C. Intake

- (1) Providers shall conduct separate face-to-face intake interviews with each parent prior to the commencement of services. During the interview, providers shall obtain identifying information, and shall provide a copy of and explain program rules, policies and procedures to each parent.
- (2) Providers shall obtain copies of current Court orders, protection orders, reports of any written record of allegations of domestic violence or abuse, and in the case of a child's chronic health condition, an account of the child's health needs prior to the commencement of services.

D. Client Provider Relationship

The physical safety measures described in this section do not substitute for providers establishing and maintaining a relationship with each client in an effort to reduce the potential risk of harm.

NM Court Standards for SESV, 2010¹⁶

Excerpt from **Chapter 5: Program Responsibilities**

D. Provider's Responsibility for the Child

(1) General Policy

Providers shall have written policies and procedures clearly defining parent and provider responsibilities, including policies regarding parent/child contact that is not covered by the Court order or agreement of the parents. The parent/child contact policies shall not delegate authority entirely to one of the parents.

(2) Refusal of Child to Visit

Providers shall have written policies and procedures for situations in which a child refuses to participate in visits or exchanges.

(3) Off-Site Safe Exchange and Supervised Visitation

(a) Providers of off-site safe exchanges and supervised visitations are responsible for negotiating in advance with the parents regarding the details of the location of the exchange or visit and who may participate in the exchange or visit.

(b) Providers shall consider and take into account the safety of all participants when determining whether or not to offer off-site safe exchanges and supervised visitations.

Excerpt from **Chapter 5: Program Responsibilities**

B. Program Policies and Procedures

Providers shall describe clearly and in writing the nature of the services they deliver and their rules, policies and procedures, including those about safety, and discuss them with and provide copies of them to parents. Such policies shall include a complaint procedure through which a client's concerns about services received or their perception of neutrality and/or conflicts of interest may be heard and addressed by the provider.

During intake, each parent comes in separately so that the provider can gather personal information about the case in order to develop a plan that will ensure the safety of the child(ren), parents, and staff. Intake information should at least include:¹⁷

- reasons for referral
- copies of current Court orders, including protective orders
- legal representation
- status of custody determinations
- other persons authorized to visit
- records or allegations of child abuse or neglect
- records or allegations of domestic violence
- photographs of children and adults who are authorized to participate in the visits or exchanges
- relevant financial data, if applicable, for determining program fees
- information about health issues and disability needs of children; releases for medications
- psychological history or concerns of parent(s)

¹⁶ NM Court Standards for SESV, 2010, pp. 3-5

¹⁷ Council on Accreditation. "Supervised Visitation and Exchange Services," 2014, p. 8.

The intake is followed by an orientation that should be conducted prior to the first supervised contact. Additionally, orientation sessions should be conducted independently with each party and at different times, so visiting and custodial parents do not come into contact with one another. The orientations should address the following:

- Program rules: information about the rules and the consequences of breaking them (i.e. reporting to the Court, termination)
- Program procedures: information regarding each person's arrival time, the pick-up and drop-off locations, entrances and exits, and visitation procedures; information regarding routine and special reporting to the court
- Parent agreement or contract: signed document showing the parent agrees to follow the program rules and procedures
- Tour of the facility: allow the parent(s) and child(ren) to see the space (i.e. room for visits, toys)
- Parent fees: information about the fees for services, when and how they should be paid, and the provider's policies regarding non-payment (i.e. reporting noncompliance to the Court, termination, etc.)

As part of the orientation, it is usually best for the provider to meet with the child alone for him or her to explore the facility and develop trust with staff. Providers may also want to discuss signals or other means of communication if, during the course of a visit or exchange, the child needs assistance from the provider.

Finally, it is critical that the policies treat all parents similarly for a given situation or case type, and that all parents are treated fairly and respectfully in order to establish trust and reliability (see Section II-3-b, Provider Specific Elements: Principles of Practice, Neutrality). The provider is expected first to refer to and follow the Court order, and then to rely on provider policies and procedures based on the requirements of the *NM Court Standards* and the AOC contract.

Element #9: Risk Assessment

NM Court Standards for SESV, 2010¹⁸

Excerpt from **Chapter 4: Safety and Security Procedures**

H. Risk Assessment, Intervention and Termination of Services

(1) Risk Assessment

Providers may review and analyze client information and behavior to determine whether services may be provided safely, or to deny or suspend services due to potential risk of harm to a client or staff member.

(2) Intervention

Providers shall have written policies and procedures for intervening in and ending parent/child visits or exchanges in progress. Ending a client's parent/child contact may be a temporary measure, and is not the same as termination of services.

(3) Termination

Providers shall have written policies and procedures that set forth the reasons for which services may be terminated.

(4) Providers shall explain the reasons for the intervention or termination of services to each parent and document the action in the case file.

Providers shall also report the reason for termination to the Court.

¹⁸ NM Court Standards for SESV, 2010, pp. 4, 6, 12.

NM Court Standards for SESV, 2010¹⁸

Excerpt from **Chapter 7: Definitions**

- (26) **Risk Assessment** means the review and analysis of historical information and observation of behavior for the purpose of determining whether the probability of a client exhibiting dangerous behavior matches the capacity of a provider managing that behavior. Risk assessment as used in these Standards does not mean a mental health assessment.

Excerpt from **Chapter 5: Program Responsibilities**

E. Referrals

(1) Accepting Referrals

- (a) Referrals are appropriate when made by order of a Court.
- (b) Providers in receipt of a Court referral that does not cover frequency, duration of parent/child contact, or type of service shall send the matter back to the Court for clarification when the parents disagree about the provision of service delivery. While awaiting clarification, providers may establish temporary conditions for the use of services, if the parents agree.

(2) Declining Referrals

- (a) Providers shall maintain written policies and procedures to screen for risk in each case.
- (b) Providers shall refuse to accept a case in which the provider cannot manage the safety needs of or risks presented by the family. Reasons for declining a referral include inadequate provider training, insufficient provider resources to deliver the service requested, and unmanageable safety or security risks.
- (c) Providers shall inform the Court in writing of the reason(s) for declining a referral.

As part of the intake, the provider is responsible for conducting a risk assessment. Since each provider is functioning in a unique setting, each provider must consider what poses a risk that they can or cannot address. The risk assessment should take into account the:

- Nature of the risk: consider the difficulty of addressing the risk
- Magnitude of the risk: consider the likelihood and danger of the identified risk
- Qualifications and capacity of the provider: consider how well equipped the provider is in addressing the risk

Procedures should be in place to notify the family and referral source of any rejection and the reason the case cannot be served. Additional risk assessments may be advisable should the family's situation change during the life of a case.

Element #10: Case Staffing and Review by Providers

The best practice is that all cases are reviewed by SESV service providers on a regular (at least quarterly) basis. The timeframe of the case review is dependent on the level of functioning of a particular family. For more high risk families or those with greater challenges, more frequent case reviews are recommended. Case reviews ideally involve all of the program staff working with the SESV case. Staff present relevant and important information on their respective clients and report any issues or concerns to the team for discussion. In addition, the case review meetings present an opportunity to update file information,

reassess safety needs, review any compliance and risk issues, and prepare for any upcoming reports to the Court (see Compliance Issues in Court-Provider Relationship Section).

It is also important to have policies and procedures in place for case closings. Typically, programs reserve the right to terminate services in the following situations:

- Safety concerns or other case issues that cannot be managed effectively by the provider
- Failure of client to pay program fees
- Threat of or actual violence or abuse
- Noncompliance with the conditions or rules for participation in the program
- Lack of provider resources to meet the increasing needs of the family

If termination is being considered because of noncompliance or non-payment of fees, the provider should attempt to meet with the parent(s) to resolve the issues prior to closing the case. If termination or closing of a case is being considered, the following process is recommended:

- Staff review the case to determine necessity for closing
- Staff meet with both parties, separately, to inform them of the termination of services and the reasons for termination
- If a meeting is not possible, then the provider sends a letter informing each party that services will be terminated
- Staff notify the Court of termination (see Compliance Issues in Section III)

Element #11: Observation Notes

NM Court Standards for SESV, 2010¹⁹

Excerpt from Chapter 5: Program Responsibilities

F. Case Files and Records

(1) General Policy on Records

- (a) Providers shall create a file for every family and maintain it according to the confidentiality standard in this section of the Standards.
- (b) Providers shall maintain a factual record of each parent/child contact.
- (c) Providers shall maintain and store records and files for a minimum of three years after the last recorded activity, at which time records may be destroyed according to State law and regulation.

Observation notes are the factual notes the provider maintains as part of the documentation of servicing (see Element #17 for detailed discussion on Factuality). These notes (not to be confused with routine status or special reports, discussed in Element 19: Reporting to the Court) should not be sent to the Court unless (1) a provision for release of information is in the Court order, (2) if the information is subpoenaed, or (3) the information is included in routine reporting to the Court (see Reporting to the Court), which each client has been informed will happen (as discussed in Element #15: Confidentiality). Observation notes should be signed using a code that is assigned to each staff member to ensure that a staff member cannot be singled out when documents are used in Court proceedings. At every visit, observation notes should be taken throughout SESV service delivery. The notes should include:

- Factual observations of the visit or exchange
- Arrival time of each parent and who brought the child(ren)

¹⁹ NM Court Standards for SESV, 2010, pp. 6-7

- Child(ren) and parent behavior and interaction at arrival
- Activities engaged in during the visit or exchange
- Child(ren) and parent behavior and interaction during visit or exchange
- Length of visit or exchange
- Child(ren) and parent behavior and interaction at departure
- Departure time
- Objective recording of activities during visit or exchange that does not include personal opinions

Observation notes should not be altered; errors should be corrected by drawing a line through the text with errors, and making and initialing the change. Most providers utilize a standard form that ensures all critical information is included in observation notes.

Element #12: Staff Training and Supervision

NM Court Standards for SESV, 2010²⁰

Excerpt from Chapter 3: Provider Staff Qualifications and Training

B. Staff Training

(1) General Training Requirements

- (a) Providers shall update their skills by obtaining training that corresponds to the exchange or visitation services they deliver.
- (b) Providers shall ensure that staff completes the position-specific training listed in this section within six (6) months of the initial hiring date or date of promotion.
- (c) A person who has not completed the required training may provide direct services only under the supervision of another person who has met the training requirements.
- (d) After initial training hours are completed, providers shall annually complete ten (10) additional hours of training, during the fiscal year, in a topic related to the services delivered.

(2) Initial Training for Supervised Visitation Monitors

The initial twenty-four (24) hours of training for all supervised visitation monitors shall include the following: *The New Mexico Court Standards for Safe Exchange and Supervised Visitation*; safety for all participants; role of the provider; record-keeping procedures; child abuse reporting laws; conflicts of interest; confidentiality; screening, intervening, monitoring and termination of visitation; developmental needs of children; issues relating to domestic violence, child abuse and neglect, sexual abuse, and substance abuse; legal responsibilities and obligations of a provider; and cultural sensitivity.

(3) Initial Training for Safe Exchange Monitors

A person providing only safe exchange services shall complete sixteen (16) hours of initial training in topics set forth in section B(2).

(4) Training for Provider Management

An individual provider or a person responsible for management of a safe exchange and supervised visitation program shall complete the training requirements set forth in section B(2), and shall also complete an additional sixteen (16) hours of training in topics relating to the management of a safe exchange and supervised visitation program.

(5) Training for Parent Coaching

A visitation monitor providing parent coaching shall complete additional training on intervention to promote change, parenting skills, and behaviors that facilitate positive attachment, separation and reconnection.

(6) Training for Therapeutic Supervision

A person providing therapeutic supervised visitation services shall hold a professional license in mental health in addition to completing the training requirements set forth in section B(2).

From Chapter 7: Definitions

- (33) **Trainee** means a person training to become a visit monitor and working under the direct supervision of a staff member responsible for his or her work. This definition includes interns and practicum students.

²⁰ NM Court Standards for SESV, 2010, pp. 2-3, 13

The provider should conduct regular supervision and evaluation of staff and, to the extent possible, provide professional development and training opportunities to meet the requirements set forth in the standards. Additionally, for security purposes, staff training should include basic safety information, as suggested below, adapted from the Florida Toolkit for Monitored Exchange Services.²¹

- first aid and CPR training
- which rooms have locking doors, phones, and windows
- a code word to alert staff when a critical incident has occurred
- a crisis plan that staff have practiced that includes emergency and evacuation procedures
- crisis response and de-escalation techniques
- lethality indicators
- weapons to notice
- how to use security devices
- how to make a 911 call

As outlined by the Council on Accreditation,²² it is also important for staff to receive training on:

- protocols for monitoring and documenting visits and exchanges
- identifying and responding to behaviors that pose physical or emotional safety risks, including assertiveness and conflict resolution training
- treating all service recipients fairly and respectfully
- providing services in a culturally competent manner
- positive parenting skills and behaviors
- the social service systems with which families are likely to come into contact, including the NM Children, Youth, & Families Department (CYFD), the Courts, and law enforcement
- relevant laws and regulations, including those related to visitation and exchange, child protection, family violence, and custody
- what children of different ages and developmental stages may need during supervised contact, and how they may respond to services
- how separation and divorce may affect the way children and parents respond during supervised visitation
- understanding the grief and loss associated with the removal of a child from the home
- understanding and monitoring cases involving child abuse and neglect, including sexual abuse understanding and monitoring cases involving substance use conditions
- understanding and monitoring cases involving mental health issues
- the dynamics of domestic violence, including the fundamentals of power and coercive control, and the potential impact of domestic violence on children
- behaviors common to perpetrators, and how these behaviors may be manifested during supervised visitation or exchange
- safety concerns that may arise when a victim attempts to separate from a perpetrator
- legal remedies in domestic violence cases, including orders of protection

²¹ “A Toolkit for Monitored Exchange Services.” Clearinghouse on Supervised Visitation. Institute for Family Violence Studies, p 39.

²² Council on Accreditation. “Supervised Visitation and Exchange Services,” 2014, p. 45.

Element #13: Visit and Exchange Management

NM Court Standards for SESV, 2010²³

Excerpt from **Chapter 5: Program Responsibilities**

H. Requests to Participate in or Observe Safe Exchanges and Supervised Visits

- (1) With regard to requests from clients for others to participate in the supervised visit or exchange:
 - (a) Providers shall have written policies and procedures to address a parent's request for others to participate in the supervised visit or safe exchange.
 - (b) Authorization for others to participate in a supervised visit or safe exchange must be obtained by the parent through Court order, the written approval of a judicial officer, or written agreement signed by both parents.
- (2) Requests from professionals to observe – Providers shall have written policies and procedures to address requests from professional practitioners to observe a supervised visit or safe exchange. Such policies and procedures shall include the conditions for the observation of the parent/child contact.

Excerpt from **Chapter 5: Program Responsibilities**

K. Parent Fees for Services

- (1) General Policy for Providers
 - (c) Providers shall establish written policies and procedures with regard to parent fees for services, including the amount and collection of fees and consequences for failure to pay. Policies and procedures shall:
 - (i) Implement the Court's order regarding the allocation of parent fees for services between one or both parents; or
 - (ii) If the Court order does not allocate parent fees, determine the amount of fees to be paid by one or both parents based upon the sliding fee scale established by the local Court and reflecting local economic conditions.
 - (c) Providers shall discuss their parent fee policies and procedures with each parent prior to the commencement of services.
 - (d) When the Court's order does not allocate parent fees and the parents do not agree with the provider's policy regarding the allocation of fees, the provider shall deny services until a parent-fee agreement is complete.
- (2) General Policy for Parents
 - (1) Parents shall pay the cost of the safe exchange and supervised visitation services pursuant to a sliding fee scale established by the local Court, as set forth in State law.
 - (2) In order to receive services, parents shall pay the amount of fees allocated in the Court's order, or if not allocated by the Court order, according to the provider's policies.

²³ NM Court Standards for SESV, 2010, pp. 8-10

NM Court Standards for SESV, 2010²³

Excerpt from **Chapter 6: Basic Administration**

E. Sliding Fee Scale

- (1) The local Court shall establish a sliding fee scale for providers in the district to use for parent fees when a Court order for safe exchange and/or supervised visitation does not allocate fees.
- (2) The Court's sliding fee scale reflects local economic conditions within the district and may be based upon the number of persons in the individual's household and household income, as well as the Federal Poverty Guidelines of the U.S. Department of Health and Human Services.

Excerpt from **Chapter 6: Basic Administration**

A. Liability Insurance

Providers shall obtain and maintain liability or other insurance coverage appropriate to their business operations and the nature of the work and services delivered, including client transportation. The Administrative Office of the Courts shall establish the minimum amount required.

B. Financial Management

- (1) Providers shall maintain financial records and follow generally accepted accounting principles. Financial records shall be retained for a minimum of seven years.
- (2) Providers shall demonstrate that revenue collected from parent fees is accounted for separately from other program revenue or contract funds, and that expenditures of revenue generated from parent fees are accounted for separately from expenditures of other program revenue or contract funds.

C. Personnel Policies

Providers shall have written personnel policies and maintain personnel records for their staff and volunteers, including a grievance process.

D. Accessibility

Providers shall have written policies and procedures to address accessibility to safe exchange and supervised visitation services in terms of geographic location, transportation, hours of operation, the Americans with Disabilities Act (ADA), and sensitivity to the ethnic, cultural, and linguistic needs of the community.

In addition to the *NM Court Standards* shown above, it is important for the SESV programs to have and enforce ground rules during SESV services. As outlined by the Council on Accreditation,²⁴ it is important to:

- prepare children for what to expect
- remind children of any special restrictions or arrangements
- respond to child distress
- not force children to participate in visits or exchanges against their will

Additionally, during a supervised visitation, there may be instances in which staff will have to facilitate or intervene. As adapted from the Province of Ontario, Canada's Best Practices Manual:²⁵

- Staff should escort children to the bathroom
- Noncustodial parties may change the diaper of the child under the supervision of staff

²⁴ Council on Accreditation. "Supervised Visitation and Exchange Services," 2014, p. 23.

²⁵ "Best Practices Manual for Supervised Access Service Providers, Supervised Access Program," The Ministry of the Attorney General, Province of Ontario, Canada, 2001, pp. 29-30.

except in special circumstances. Where there are allegations of child sexual abuse, the noncustodial parent is not allowed to diaper or accompany the child to the bathroom even under supervision

- If a child appears uncomfortable, expresses uneasiness, or becomes visibly upset, staff should intervene
- Staff must intervene if physical discipline is used by the parent
- When there has been a lengthy separation between a child and a noncustodial parent, staff may need to reintroduce the family
- Toward the end of the visit, it is important to inform the family that the visit is almost over to allow them time to prepare

Element #14: Collaboration and Coordination

Although not directly addressed in the *NM Court Standards*, SESV services are greatly enhanced when the community and the referring Court are aware of the services. It is important for the SESV provider to develop relationships with the appropriate community agencies as well as with the referring Courts to increase their awareness of the SESV services and improve their ability to refer appropriately to the SESV program. Providers have many ways in which they can create and maintain collaborative partnerships with the referring Courts and other community agencies. These include:

- Create a resource directory of all the services in the community that clients may need
- Develop and distribute an information brochure to Courts and community agencies. These brochures can be tailored to particular audiences like lawyers, Courts, and social service agencies. Brochures should include: goals and purpose of program, services provided, hours of operation, who may use the program, rules and fees, and contact information
- Meet with Judges, judicial officers, or other personnel from referring Courts to learn about the procedures for referring and reviewing cases; describe the SESV program; establish common expectations regarding documentation, reports, and the communication of case-related information
- Meet with other community agencies to learn about their services and make presentations on SESV services
- Develop a protocol with local police that details policies and procedures that effect the interface between the two agencies²⁶

C. Principles of Practice

Principles of practice ensure that the rights of each party are maintained and that each provider engages in activities that align with the Court order and the intentions of the SESV program. Confidentiality, neutrality, conflict of interest, factuality, and the procedures to address grievances or complaints form the primary principles of practice that should guide service provider practice in New Mexico.

²⁶ “Best Practices Manual for Supervised Access Service Providers. Supervised Access Program,” The Ministry of the Attorney General, Province of Ontario, 2001, p. 64.

Element #15: Confidentiality

NM Court Standards for SESV, 2010²⁷

Excerpt from **Chapter 5: Program Responsibilities**

F. Case Files and Records

(2) Protection of Client Information

Providers shall set forth in writing, implement, and maintain policies and procedures which address the confidentiality and protection of client information, and the release of case information only as provided by law, Court order, or parental consent.

(3) Parent's Right to Review Records

(a) Providers shall have written policies and procedures regarding a parent's right to review their own case file in accordance with State law.

(b) Providers shall respond to a parent's request to review the case file, permitting the parent to review the file while excluding personal, confidential, and any other information protected by law about the other parent or the child.

G. Confidentiality

(1) General Policies

(a) Providers shall have written policies and procedures to address confidentiality and the limits of confidentiality, including but not limited to the submission to the Court of observation notes or reports.

(b) Clients of safe exchange and supervised visitation providers do not have a privilege of confidentiality to protect against the subpoena of case records by the Court or another party as part of a Court proceeding.

(c) Providers shall maintain confidentiality and refuse to disclose information without the written permission of the client(s), except as set forth under Section 5(G)(2) of the Standards.

(2) Exceptions to Confidentiality

Providers may release client information without specific client permission in the following situations:

(a) In response to a subpoena;

(b) To report suspected child abuse or neglect to the appropriate authority as required by law; and

(c) To report danger or threats of harm to self or others as required by law.

Confidentiality of case information falls into two general categories: general confidentiality and release of information. General confidentiality means that service providers do not discuss or share case information casually, discuss the need to use non-identifying information, collaborate with others on a need-to-know basis, and conduct such conversations at appropriate times and places to ensure that client confidentiality is maintained. Thus, the service provider does not discuss or reveal information about one party to the other, or to other people they may know through work, school, religious activities, etc.

Release of information means that observation notes, intake records, and other client information is not shared with the Court unless (1) a provision for release of information is contained in the Court order, (2) if the information is subpoenaed, or (3) the information is included in routine reporting to the Court (see Reporting to the Court), which each client has

²⁷ NM Court Standards for SESV, 2010, p. 7.

been informed will happen. It is essential that the service provider has clarity about which information should be disclosed to the Court, the proper form, and appropriate time (see Section III-3, Court-Provider Working Relationship, Reporting to the Court). Each service provider should design its policies and procedures to align with the *NM Court Standards* to ensure that the parties' right to confidentiality is maintained.

It is also important for the provider to ensure that confidentiality is fostered within the agency environment. As adapted from Ontario's "Best Practices,"²⁸ ways in which to ensure confidentiality include:

- concealing private information (e.g. reports, observation notes, files, etc.) at all times
- providing staff with covered clipboards
- locking file cabinets when not in use
- locking office doors when not in use
- locking computers, cell phones, and other electronics containing confidential information when not in use
- never playing back telephone messages when others may hear
- ensuring that families have privacy in conversations and that they cannot overhear other potentially private conversations
- using only the first name of program staff
- refraining from discussions involving family issues in the presence of other families or anyone else

Element #16: Neutrality and Conflict of Interest

NM Court Standards for SESV, 2010²⁹

Excerpt from **Chapter 5: Program Responsibilities**

C. Neutrality and Conflict of Interest

(1) Neutrality

Neutrality means that providers will treat every client with respect and fairness, while protecting children attempting to maintain contact with their parents. Neutrality does not mean providers will disregard violent or abusive behaviors of any kind.

(2) Conflict of Interest

Unless otherwise approved by the Court, providers and their staff shall not:

- (a) Be financially dependent upon any member of a family using the provider's safe exchange and supervised visitation services;
- (b) Be an employee or employer of any member of a family using the provider's safe exchange and supervised visitation services, or be employed by or a volunteer of the same or another agency providing services to a client; or
- (c) Have an intimate or personal relationship with any member of a family using the provider's safe exchange and supervised visitation services.

Excerpt from **Chapter 7: Definitions**

- (13) **Neutral/neutrality** as used in the context of supervised visitation means treating every client with respect and fairness, while protecting children as they attempt to maintain contact with their parents. Being neutral does not mean providers will disregard violent or abusive behaviors of any kind.

²⁸ "Best Practices Manual for Supervised Access Service Providers. Supervised Access Program," The Ministry of the Attorney General, Province of Ontario, Canada, 2001, p. 15.

²⁹ NM Court Standards for SESV, 2010, pp. 8, 11.

Neutrality is intended to reduce bias, taking of sides, judgment and prejudice, and serves to increase the objectivity of the provider. Additionally, conflict of interest may have an impact on a provider's ability to engage with parents in a neutral fashion. Providers should develop policies and procedures to guide and educate staff members in regards to neutrality and conflict of interest.

Neutrality

At times the facts of a case may make one party appear in the wrong and the other in the right. Despite this concern, the Court has determined that it is in the best interests of the child(ren) to maintain relationships with both parents, although the noncustodial parent must be supervised. Add new FN: Sec. 40-4-9.1A – Joint Custody, Standards of Determination, Parenting Plan (NMSA, 1978). Also include in Appendix; will send pdfs to use! The role of the provider is to maintain neutrality with each party in the case by engaging with respect and fairness, no matter what they know about the case. Neutrality does not mean that inappropriate behavior on the part of a client should be tolerated; the provider is expected to address the behavior in a respectful manner.

Below is a list of examples that demonstrate neutrality and the corresponding biased action to help clarify the concept. Maintaining neutrality should be viewed as an ongoing and pervasive issue that requires training and ongoing diligence. Supervision and case staffing are important facets of developing and maintaining neutrality.

Neutrality	Biased
A parent with allegations of domestic violence is required to arrive at the visitation program fifteen minutes early to ensure that this parent is not using the visit as an opportunity to stalk the other parent.	A parent with allegations of domestic violence is assumed to be dangerous and visits are often cut short by the supervised visitation staff.
Staff learn that a noncustodial parent has allegations of sexual abuse and take the necessary precautions outlined for supervised visits in high risk cases.	Staff learn that a noncustodial parent has allegations of sexual abuse and start to treat this parent differently by avoiding them and interacting with him or her less frequently.

Conflict of Interest

A conflict of interest arises when a member of the provider's staff, or the provider, has another relationship with a party receiving services. Conflict of interest may impact a person's ability to maintain professional conduct and neutrality. Certain relationships identified in the *NM Court Standards* and are explicitly prohibited. These, however, are not the only circumstances in which a conflict of interest may arise. Other conflicts of interest may arise when a person knows a client through a school or church setting, or even through other employment or volunteer activities.

Several considerations should guide providers in deciding whether a conflict of interest exists and determining the best way to handle a possible conflict of interest. Key issues include, but are not limited to:

- Actual conflict of interest
- Perception of conflict of interest
- Degree of impact of the conflict of interest on neutrality

- Alternate staffing to avoid actual or perceived conflict of interest, to maintain neutrality
- Collaboration with the Court regarding nature of conflict of interest and information to be disclosed to client(s)
- Disclosure of actual or perceived conflict of interest to the client

Guidelines regarding conflict of interest, including disclosure and waiving of conflict of interest, should be delineated in the provider's policies and procedures manual. All staff should be informed of the policies and procedures. In addition, this information should be discussed during the client orientation process (discussed in Element 8: Intake and Orientation). Finally, continuing education of provider staff relating to ethics and understanding situations that may pose conflict of interest issues should also be a central part of the provider's practice.

Conflicts of interest may arise at any time and should be considered throughout the course of the case and beyond. To eliminate potential conflicts of interest, providers should avoid developing friendships and interacting via social media with clients until at least two years following the closure of a case.

To help providers and staff pinpoint actual or perceived conflicts of interest, the following questions may be helpful:

- Will you be able to maintain professional conduct or action?
- Will the client think you can maintain professional conduct or action?
- Will a third party think you can maintain professional conduct or action?

When a client knows a staff member – or *any* staff in a larger agency – it should be documented in the person's file with a notation that the SESV staff person should not supervise visits or exchanges, or the SESV monitor not discuss the case with any other staff person in the agency, to avoid the possibility of new information entering in and clouding the facts about the case that did not arise during the intake or routine SESV observations. A written acknowledgement or waiver of concern about a potential conflict of interest should be signed by the parent and retained in the file, as good practice.

Ongoing training and provider diligence is warranted to ensure conflict of interest does not arise and is appropriately addressed when it does arise. Providers should also establish a client complaint process to help identify conflicts of interest or other concerns that may need to be addressed by the program in providing services. Additional information about complaints will be discussed in Element 18.

Element #17: Factuality

NM Court Standards for SESV, 2010³⁰

Excerpt from **Chapter 5: Program Responsibilities**

J. Reports to Courts

(1) Factual Reports

- (a) Providers shall, with the assistance of the Court when possible, develop and maintain written policies and procedures regarding documentation for the Court, including policies and procedures for case reviews, any needed changes to the Court order, and whether or not participation in the services shall continue or terminate.
- (b) In submitting documentation to the Court, providers shall limit reports to facts, observations and direct statements made by participants, and omit the provider's personal conclusions, suggestions, or opinions. Specifically, providers shall not make recommendations or offer opinions regarding the determination of child custody, exchange or visitation arrangements.

(2) Cautionary Note on Reports or Observation Notes

When submitting reports or copies of observation notes to the Court, providers shall include a cautionary note describing the limitations on the way the information should be used.

K. Evaluations and Recommendations

(1) General Policy

- (a) Providers shall not perform mental health or other evaluations or assessments, except as specifically noted in this section of the Standards.
- (b) Providers shall conduct safe exchange and supervised visitation services independently of a licensed or certified mental health professional, or any other professional who is performing a mental health, custody, parenting, developmental, or attachment assessment or evaluation of the client(s).
- (c) This policy does not prohibit providers from making factual information based on observations of clients available to others in the conduct of an evaluation or assessment.

(2) Therapeutic Supervised Visitation Exception

In the provision of therapeutic supervised visitation, a licensed mental health professional may prepare a written report to describe a parent's commitment or readiness for treatment, and may include a professional opinion about a parent or child's readiness to enter the next phase of treatment. Such report, however, shall not offer an opinion or recommendation about child custody, safe exchange or visitation determinations.

Factuality appears to be a simple concept, and yet it is difficult at times to accomplish because of opinions, pre-existing beliefs and attitudes that may present unexpected barriers. Factual information includes only information that is gathered using the senses, specifically what is seen, heard, and, sometimes smelled. Facts may also include facial expressions, tone and behaviors or actions. Factuality can be difficult to achieve, because the human mind automatically synthesizes information to make meaning of it. However, it does so using all the available information, including information that is not factual or pertinent to the situation, such as past experience, which can result in bias.

³⁰ NM Court Standards for SESV, 2010, pp. 8,11.

Factuality is one way the provider ensures neutrality. The role of the provider is to gather, and provide when appropriate, factual information regarding the SESV services, leaving the job of interpretation to the Court. Moreover, the parent’s behavior in the “controlled” SESV environment may be very different compared to their behavior outside the SESV setting. If recommendations or opinions are offered, they may produce inappropriate actions or unintended consequences that could ultimately endanger the child(ren). Providing factual information ensures that the Court, which is privy to a greater amount of detail than providers have and which has the responsibility for making judgments in these cases, has clear information on the case.

To ensure factuality, reports and observation notes should contain only facts and should not include any opinions or recommendations. Facts are observable, specific and measurable.

Below is a table with a list of statements that involve interpretation (left column) and the corresponding factual statements (right column) to help clarify the difference between the two concepts. Since taking factual notes can be quite tricky, it is helpful for service providers to engage in training and internal review of observation notes and reports to develop and maintain factual collection of information.

Interpretive statement	Factual statement
The child was happy.	The child was smiling and giggling.
The father was mean to the child.	The father yelled, “Why did you drop the ice cream on the floor, you fool!”
The father was engaged.	The father was on his knees playing with trucks on the floor next to the child.
The mother ignored the children.	During the one-hour session, the mother looked at her phone for a total of 35 minutes.
The mother was affectionate.	During the session, the mother responded to and hugged her child three times, frequently smiled at the child, and held the child’s hand.
The aunt was drunk.	The aunt’s speech was unclear and she seemed to have difficulty walking.
The uncle was high.	The uncle didn’t look the provider in the eye, and he smelled musky.

Element #18: Grievances and Complaints

Even when providers provide the highest quality of care, there may still be some situations in which misunderstandings and disagreements can arise regarding SESV services. Conflict may occur between staff members or between a provider and a client. Providers should have policies and procedures in place to ensure an appropriate means to resolve either type of situation.

Ideally, conflicts can be resolved through informal conversations directly with the person(s) in conflict. If this is not enough, conversations with successively higher levels of supervisors or

managers will likely address most issues. However, there are times when these steps will not be sufficient, and providers must rely on a more formal grievance procedure. Such procedures should include:

- The manner in which a formal written grievance can be made (i.e. a letter, completing a form)
- To whom the grievance should be made and a description of successive levels of supervision responsibilities (including recordkeeping)
- The time frame after an incident within which a formal grievance must be made
- The time frame within which a written response from the SESV program will be provided
- The circumstances for appeal of decisions or responses, including the manner and time frame
- The right to access assistance in filing a grievance or complaint and completing the grievance/complaint process.

Providers are expected to respond to all complaints and make every effort to resolve such conflicts. The provider is also expected to keep appropriate records of grievances and their resolution. On occasion, the Court and/or the AOC may assist with resolving a situation.

III. Court-Provider Elements

Effective communication between the District Court and the SESV provider is essential to fulfilling the program purpose and goals. Courts and providers will develop relationships and collaborative styles unique to the staff profiles and context of the community they are serving. The elements included in this section include communication procedures, reporting to the Court, and noncompliance issues.

Element #19: Reporting to Court

NM Court Standards for SESV, 2010³¹

Excerpt from **Chapter 5: Program Responsibilities**

I. Reports to Courts

(1) Factual Reports

- (a) Providers shall, with the assistance of the Court when possible, develop and maintain written policies and procedures regarding documentation for the Court, including policies and procedures for case reviews, any needed changes to the Court order, and whether or not participation in the services shall continue or terminate.
- (b) In submitting documentation to the Court, providers shall limit reports to facts, observations and direct statements made by participants, and omit the provider's personal conclusions, suggestions, or opinions. Specifically, providers shall not make recommendations or offer opinions regarding the determination of child custody, exchange or visitation arrangements.

(2) Cautionary Note on Reports or Observation Notes

When submitting reports or copies of observation notes to the Court, providers shall include a cautionary note describing the limitations on the way the information should be used.

J. Evaluations and Recommendations

(1) General Policy

- (a) Providers shall not perform mental health or other evaluations or assessments, except as specifically noted in this section of the Standards.
- (b) Providers shall conduct safe exchange and supervised visitation services independently of a licensed or certified mental health professional, or any other professional who is performing a mental health, custody, parenting, developmental, or attachment assessment or evaluation of the client(s).
- (c) This policy does not prohibit providers from making factual information based on observations of clients available to others in the conduct of an evaluation or assessment.

(2) Therapeutic Supervised Visitation Exception

In the provision of therapeutic supervised visitation, a licensed mental health professional may prepare a written report to describe a parent's commitment or readiness for treatment, and may include a professional opinion about a parent or child's readiness to enter the next phase of treatment. Such report, however, shall not offer an opinion or recommendation about child custody, safe exchange or visitation determinations.

³¹ NM Court Standards for SESV, 2010, pp. 8, 10-11.

NM Court Standards for SESV, 2010³¹

Excerpt from **Chapter 7: Definitions**

- (3) **Case file** means a collection of records, reports, contracts, or other documents pertaining to a specific case.
- (10) **Evaluation** means a component of the planned change effort in which a mental health practitioner and the client assess the progress and success of the planned change effort.
- (19) **Parent/child contact** means interaction between a parent or other authorized person and one or more children. Contact may be face-to-face, by mail and e-mail, telephone, video conference, or other means of communication.
- (24) **Recommendation** means drawing conclusions and making statements about a professional opinion concerning future exchange and visitation arrangements or child custody determination services.
- (25) **Record** means an account of information or facts for a specific purpose. A case file may contain multiple records of visits and exchanges, records of payment and attendance, as well.

In order to keep the Court informed about the status of cases, each SESV provider will submit routine status reports directly to the Court (see Element #15: Confidentiality for additional guidelines). These reports will be shared with each party if they will be used in Court proceedings. The frequency, timing and manner of delivery of these reports should be determined in collaboration between the Court – and possibly each referring Court – and the provider.

The provider should ensure that no personal conclusions, suggestions, opinions or recommendations are included in the information that is recorded, and only factual information is provided (see Element 17: Factuality).

Routine Status Reports

The routine status reports should follow the Best Practices Manual guidelines to ensure provider neutrality and factuality (see Elements 16 and 17). A routine report should contain the following items for each case:

- Case caption
- Frequency of contact (from Court order)
- Actual contact (if not consistent, provide reason if known)
- Whether parties are complying with order (if not, factual information regarding the details of noncompliance).
- Out of the ordinary observations (e.g. showing up drunk, negative comments about other parent, etc.)
- Request for review hearing of the case

The provider may use a checklist to provide this information to the Court; but each referring Judge or judicial officer may need to have certain information provided, and should be consulted about their expectations for reports. Observation notes provide the information needed to complete routine status reports.

Special Reports

Special reports serve as a mechanism for providing information about unforeseen circumstances in a timelier manner than routine status reports. Such reports may include critical incidents, for example, when police were called or an accident occurred,

interventions, terminations, or a special request, such as for an interpreter or a case review hearing. In some situations, the provider may believe it is important to provide information to the Court outside of the routine report process, which the special report allows.

It is especially important to maintain provider neutrality and provide only factual information when preparing special reports. The report should include the case caption and factual information regarding the reason for the special report.

Element #20: Communication Procedures

To ensure that communication occurs reliably and effectively, it is beneficial to establish common expectations regarding reports, documentation, and other case-related communications. As a general rule, the Court should not expect the regular attendance of the provider at Court hearings without a subpoena or a Court request. Ex parte communication, or communication that is not provided to both parties, should not occur. The written communication pathways and parameters established under the Elements of “Court Orders” and “Reporting to the Court” are clearly communicated to both parties, and should be utilized to ensure ex parte communication does not occur.

Delivery Method

The provider should adopt a delivery method that ensures reports are provided to the Court reliably, regularly, and in a timely manner.

Regularity and Timeliness

What is considered “regular” will depend on the unique nature of each district and each Court. The provider, in collaboration with the Court, should establish a minimum frequency for providing routine status reports to the Court. At a minimum, routine status reports should be delivered on a quarterly basis to the Court.

Special reports should, in turn, be delivered in a timely manner to the Court. Providers should ask the Court about the time deadlines it prefers, and establish a regular routine for this purpose between the provider and the Court. At a maximum, special reports should be submitted within seven days of an incident.

Reliability

It is essential for the Court to receive reports from the provider directly. Direct delivery may take several forms such as e-mail, secure software systems, fax or postal mail. The intention is that the delivery method be direct and reliable, both in terms of what information is delivered and the fact that it is delivered. The provider and Court should establish a standard delivery method that ensures reports are delivered reliably to the Court.

Element #21: Compliance Issues

At times, party noncompliance may be an issue. Noncompliance includes but is not limited to non-payment of services, no-show or non-participation in services, and non-compliance with provider rules. Each provider should have policies in place to address issues of non-payment (such as late fees or termination procedures). While it may be up to the discretion of the provider to file a special report regarding noncompliance and suspension or termination of services, providers must coordinate their plans for future services for the clients with the referring Court. In addition, noncompliance should be noted in the routine

status reports. The provider should consider the following actions to resolve a noncompliance issue:

- Work with the client to resolve the noncompliance
- Provide a special report to the Court and request a hearing
- Suspend services until the Court addresses the issue
- Work with Court to establish the policy regarding noncompliance to incorporate into the Court orders

The Court should consider the following actions to prevent or address noncompliance issues:

- Review Routine Status Reports and Special Reports carefully and schedule hearings in a timely fashion to address noncompliance issues
- Include language in Court orders regarding the steps providers should take when noncompliance occurs
- Work with provider to establish a policy regarding noncompliance to include in the Court orders

IV. AOC Elements

Several years ago, the District Courts with Safe Exchange & Supervised Visitation programs asked the AOC to oversee the local SESV funding and contracts. The AOC assists the local service provider contractors with the day-to-day management of the program, assuring the Courts, the Legislature, clients and the public that the *NM Court Standards* are met, staff is trained and qualified, and needed safety precautions are in place.

The AOC also provides training and technical assistance, especially for new programs and new staff. In addition, the AOC staff consults frequently with the referring Courts to determine each Court's specific needs and conducts on-site visits with the SESV service providers to assess each program's ability to meet those needs. Finally, the AOC ensures that performance targets are met and funding expended in an appropriate manner, and helps to redress situations that arise for noncompliance with contracts and client complaints.

Element #22: Contractual Obligations

The AOC issues a Request for Proposal (RFP) periodically to procure SESV services. Contracts are awarded for an initial one-year period, with an option to renew each year for three additional years at the discretion of the Judicial District and the AOC. Continuation of the contract for each additional year is contingent upon satisfactory performance by the provider, as determined by the Judicial District and the AOC as well as the availability of sufficient funding.

Through the AOC contracts, SESV providers are required to:

- Provide services in alignment with the *NM Court Standards*
- Submit staff credentials form within 30 calendar days of a person's hiring or promotion date, and the CYFD letter of approval of each staff person's background checks
- Submit yearly budgets to the District Court and AOC for approval
- Submit monthly invoices to AOC, accompanied by the monthly Combined Services performance report
- Submit monthly data reports to AOC
- Update and submit sliding fee schedule annually

- Submit quarterly reports to District Court and AOC on parent fees collected and expended
- Submit to the Court and the AOC any modification in program rules, policies, and procedures and budget within 30 calendar days of the changes
- Submit a mid-year narrative report to the Court and the AOC, which describes successes and innovations that can be incorporated into the annual program report
- Submit to the Court and the AOC a proposed budget for the next fiscal year
- Assure the AOC that each person providing direct services has met the annual requirement for 10 additional hours of continuing education and training

SESV providers are also expected to report regularly to and communicate with their Judicial District Court. As detailed in the contract's scope of work, providers must:

- Provide services to families in domestic matters, domestic violence, and other appropriate cases referred by the Court
- Maintain strong working relationships with the Court
- Report to the Court on observations (see Element #19: Reporting to the Court) made during visits and exchanges, participation by the children and parents, payment of fees, and compliance with the Court's order for services
- Promote the program with the referring Courts and attorneys representing parents and children, as directed by the Court and AOC.

The AOC monitors each provider's compliance with the contract and keeps the Courts informed about their provider's performance.

The AOC also submits quarterly data on the performance of the SESV program statewide to the Legislature, and responds to inquiries from members and others about the program. The AOC developed and now manages a website for the program to assist providers with needed documents and other resources, and to provide the public with general information about SESV services in New Mexico, including the annual report and related materials of interest to the public.

Element #23: Relationship with District Court

The AOC ensures that service providers are communicating appropriately with the referring Courts and addressing the Court's concerns about cases referred for SESV services. The AOC works with individual Judges, judicial officers, Court attorneys and administrators to ensure that the Court's needs are met, contractors provide the expected services, and clients are satisfied with services they receive.

The AOC consults with the Courts each spring at contract renewal time and/or during the procurement process to identify the needs and concerns to be addressed by the local provider(s). The AOC also helps to educate newly appointed and elected Judges and judicial officers on the SESV program and its potential value in stabilizing the Court's caseload. These efforts help to enhance the referring Courts' understanding of the program, its benefits and limitations, and how SESV can assist them with a heavy family and domestic violence caseload.

Since each district is very different in terms of size, culture and resources, the AOC does not expect all programs to resemble one another, but instead seeks to learn that they follow these Best Practices in terms of safety for New Mexico children when referred by the Courts for services.

I. Description of Program Assessment

Program assessment is primarily a quality assurance tool, in that it evaluates how well the SESV provider is implementing each of the manual's elements. The aim of quality assurance activities is the development of continuous quality improvement plans. Most importantly, it is not an audit function, but is a review of the actual processes, services, attitudes, and capabilities at the time of assessment. The assessment must necessarily capture the correct and complete picture of service implementation in a "snapshot" fashion. The report generated from the assessment process should be used to develop comprehensive continuous quality improvement plans that create, enhance or sustain services at a high level of excellence.

Because the assessment is not an audit tool that is tied to funding, it urges providers look at themselves with a critical eye, and be completely honest regarding operations at both the administrative and service implementation level. Without this level of open and candid self-analysis, this tool will be rendered somewhat useless. The results belong to the provider agencies assessed, and the results inform what and where to apply current and future efforts toward improving services. The assessment will not be useful as a showcase, but will be effective to measure improvements of the provider's service capability over time.

II. Description of the Program Assessment Tool

The SESV program assessment tool measures fidelity related to the level of service implementation for each of the elements outlined in the Best Practices Manual. Fidelity is defined as the extent to which program services adhere to the program model. Each of the elements consists of components, and the provider is guided through a set of five questions for each of the components. The questions are listed below:

1. On a scale from 1-5, rate your level of implementation of this practice where '1' indicates not practiced at all and '5' indicates that this practice is implemented all of the time.
2. On a scale from 1-3, indicate whether or not there are policies and procedures in place for this practice where '1' means no, '2' means partially and '3' means yes.
3. Describe the current application of procedures.
4. Does the agency want or have plans for improvement in this area?
5. Describe the plans for improvement and identify any training or technical assistance needs.

The tool is located in Appendix IV and provides more detailed instructions on its completion.

Appendices

Appendix A: Relevant Laws, Regulations and Standards

Appendix B: Sample Forms

Appendix C: References

Appendix D: Program Assessment Tool

Appendix A: Relevant Laws, Regulations and Standards

NM DOMESTIC RELATIONS CODE

40-12-5.1. Supervised visitation program.

- A. A judicial district may establish a “safe exchange and supervised visitation program” by local court rule approved by the supreme court. The safe exchange and supervised visitation program shall be used when, in the opinion of the court, the best interests of the child are served if confrontation or contact between the parents is to be avoided during exchanges of custody or if contact between a parent and a child should be supervised. In a safe exchange and supervised visitation program, the district court may employ or contract with a person:
- (1) with whom a child may be left by one parent for a short period while waiting to be picked up by the other parent; or
 - (2) to supervise visits among one or both parents and the child.
- B. A parent may request the services of the safe exchange and supervised visitation program or the court may order that the program be used.
- C. Parents shall pay the cost of the safe exchange and supervised visitation program pursuant to a sliding fee scale approved by the supreme court. The sliding fee scale shall be based on ability to pay for the service. The fees shall be paid to the district court to be credited to the fund.

History: Laws 2001, ch. 201, § 2; 2009, ch. 201, § 2.

The 2009 amendment, effective June 19, 2009, in Subsection A, in the first sentence, after “judicial district may establish a”, added “safe exchange and”; in the second sentence, added “safe exchange and”; and in the last sentence, added “safe exchange and”; in Subsection B, after “request the services of the”, added “safe exchange and”; and in Subsection C, after “pay the cost of the”, deleted “neutral corner” and added “safe exchange and supervised visitation”.

40-4-9.1. Joint custody; standards for determination; parenting plan.

- A. There shall be a presumption that joint custody is in the best interests of a child in an initial custody determination. An award of joint custody does not imply an equal division of financial responsibility for the child. Joint custody shall not be awarded as a substitute for an existing custody arrangement unless there has been a substantial and material change in circumstances since the entry of the prior custody order or decree, which change affects the welfare of the child such that joint custody is presently in the best interests of the child. With respect to any proceeding in which it is proposed that joint custody be terminated, the court shall not terminate joint custody unless there has been a substantial and material change in circumstances affecting the welfare of the child, since entry of the joint custody order, such that joint custody is no longer in the best interests of the child.
- B. In determining whether a joint custody order is in the best interests of the child, in addition to the factors provided in Section 40-4-9 NMSA 1978, the court shall consider the following factors:
- (1) whether the child has established a close relationship with each parent;
 - (2) whether each parent is capable of providing adequate care for the child throughout each period of responsibility, including arranging for the child’s care by others as needed;
 - (3) whether each parent is willing to accept all responsibilities of parenting, including willingness to accept care of the child at specified times and to relinquish care to the other parent at specified times;
 - (4) whether the child can best maintain and strengthen a relationship with both parents through predictable, frequent contact and whether the child’s development will profit from such involvement and influence from both parents;
 - (5) whether each parent is able to allow the other to provide care without intrusion, that is, to respect the other’s parental rights and responsibilities and right to privacy;
 - (6) the suitability of a parenting plan for the implementation of joint custody, preferably, although not necessarily, one arrived at through parental agreement;
 - (7) Geographic distance between the parents’ residences;
 - (8) willingness or ability of the parents to communicate, cooperate or agree on

issues regarding the child's needs; and

(9) whether a judicial adjudication has been made in a prior or the present proceeding that either parent or other person seeking custody has engaged in one or more acts of domestic abuse against the child, a parent of the child or other household member. If a determination is made that domestic abuse has occurred, the court shall set forth findings that the custody or visitation ordered by the court adequately protects the child, the abused parent or other household member.

C. In any proceeding in which the custody of a child is at issue, the court shall not prefer one parent as a custodian solely because of gender.

D. In any case in which the parents agree to a form of custody, the court should award custody consistent with the agreement unless the court determines that such agreement is not in the best interests of the child.

E. In making an order of joint custody, the court may specify the circumstances, if any, under which the consent of both legal custodians is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent.

F. When joint custody is awarded, the court shall approve a parenting plan for the implementation of the prospective custody arrangement prior to the award of joint custody. The parenting plan shall include a division of a child's time and care into periods of responsibility for each parent. It may also include:

(1) statements regarding the child's religion, education, child care, recreational activities and medical and dental care;

(2) designation of specific decision-making responsibilities;

(3) methods of communicating information about the child, transporting the child, exchanging care for the child and maintaining telephone and mail contact between parent and child;

(4) procedures for future decision making, including procedures for dispute resolution; and

(5) other statements regarding the welfare of the child or designed to clarify and facilitate parenting under joint custody arrangements.

In a case where joint custody is not agreed to or necessary aspects of the parenting plan are contested, the parties shall each submit parenting plans. The court may accept the plan proposed by either party or it may combine or revise these plans as it deems necessary in the child's best interests. The time of filing of parenting plans shall be set by local rule. A plan adopted by the court shall be entered as an order of the court.

G. Where custody is contested, the court shall refer that issue to mediation if feasible. The court may also use auxiliary services such as professional evaluation by application of Rule 706 [Rule 11-706 NMRA] of the New Mexico Rules of Evidence or Rule 53 [Rule 1-053 NMRA] of the Rules of Civil Procedure for the District Courts.

H. Notwithstanding any other provisions of law, access to records and information pertaining to a minor child, including medical, dental and school records, shall not be denied to a parent because that parent is not the child's physical custodial parent or because that parent is not a joint custodial parent.

I. Whenever a request for joint custody is granted or denied, the court shall state in its decision its basis for granting or denying the request for joint custody. A statement that joint custody is or is not in the best interests of the child is not sufficient to meet the requirements of this subsection.

J. An award of joint custody means that:

(1) each parent shall have significant, well-defined periods of responsibility for the child;

(2) each parent shall have, and be allowed and expected to carry out, responsibility for the child's financial, physical, emotional and developmental needs during that parent's periods of responsibility;

(3) the parents shall consult with each other on major decisions involving the child before implementing those decisions; that is, neither parent shall make a decision or take inaction which results in a major change in a child's life until the matter has been discussed with the other parent and the parents agree. If the parents, after discussion, cannot agree and if one parent wishes to effect a major change while the other does not wish the major change to occur, then no change shall occur until the issue has been resolved as provided in this subsection;

(4) the following guidelines apply to major changes in a child's life:

(a) if either parent plans to change his home city or state of residence, he shall provide to the other parent thirty days' notice in writing stating the date and destination of move;

(b) the religious denomination and religious activities, or lack thereof, which were being practiced during the marriage should not be changed unless the parties agree or it has been otherwise resolved as provided in this subsection;

(c) both parents shall have access to school records, teachers and activities. The type of education, public or private, which was in place during the marriage, should continue, whenever possible, and school districts should not be changed unless the parties agree or it has been otherwise resolved as provided in this subsection;

(d) both parents shall have access to medical and dental treatment providers and records. Each parent has authority to make emergency medical decisions. Neither parent may contract for major elective medical or dental treatment unless both parents agree or it has been otherwise resolved as provided in this subsection; and

(e) both parents may attend the child's public activities and both parents should know the necessary schedules. Whatever recreational activities the child participated in during the marriage should continue with the child's agreement, regardless of which of the parents has physical custody. Also, neither parent may enroll the child in a new recreational activity unless the parties agree or it has been otherwise resolved as provided in this subsection; and

(5) decisions regarding major changes in a child's life may be decided by:

- (a) Agreement between the joint custodial parents;
- (b) requiring that the parents seek family counseling, conciliation or mediation service to assist in resolving their differences;
- (c) agreement by the parents to submit the dispute to binding arbitration;
- (d) allocating ultimate responsibility for a particular major decision area to one legal custodian;
- (e) terminating joint custody and awarding sole custody to one person;
- (f) reference to a master pursuant to Rule 53 [Rule 1-053 NMRA] of the Rules of Civil Procedure for the District Courts; or
- (g) the district court.

K. When any person other than a natural or adoptive parent seeks custody of a child, no such person shall be awarded custody absent a showing of unfitness of the natural or adoptive parent.

L. As used in this section:

(1) "child" means a person under the age of eighteen;

(2) "custody" means the authority and responsibility to make major decisions in a child's best interests in the areas of residence, medical and dental treatment, education or childcare, religion and recreation;

(3) "domestic abuse" means any incident by a household member against another household member resulting in:

- (a) physical harm;
- (b) severe emotional distress;
- (c) a threat causing imminent fear of physical harm by any household member;
- (d) criminal trespass;
- (e) criminal damage to property;
- (f) stalking or aggravated stalking, as provided in Sections 30-3A-3 and 30-3A-

3.1 NMSA 1978; or

(g) harassment, as provided in Section 30-3A-2 NMSA 1978;

(4) "joint custody" means an order of the court awarding custody of a child to two parents. Joint custody does not imply an equal division of the child's time between the parents or an equal division of financial responsibility for the child;

(5) "parent" means a natural parent, adoptive parent or person who is acting as a parent who has or shares legal custody of a child or who claims a right to have or share legal custody;

(6) "parenting plan" means a document submitted for approval of the court setting forth the responsibilities of each parent individually and the parents jointly in a joint custody arrangement;

(7) "period of responsibility" means a specified period of time during which a parent is responsible for providing for a child's physical, developmental and emotional needs, including the decision making required in daily living. Specified periods of responsibility shall not be changed in an instance or more permanently except by the methods of decision making described under Subsection L [Subsection J] of this section;

(8) "sole custody" means an order of the court awarding custody of a child to one parent; and

(9) "visitation" means a period of time available to a noncustodial parent, under a sole custody arrangement, during which a child resides with or is under the care and

control of the noncustodial parent.

History: 1978 Comp., § 40-4-9.1, enacted by Laws 1981, Ch. 112, § 1; reenacted by Laws 1986, Ch. 41, § 1; 1999, Ch. 242, § 1.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law. The reference in Subsection L (7) to Subsection L appears to be erroneous. The apparent intended reference is to Subsection J.

The 1999 amendment, effective June 18, 1999, added Subsection B(9); in Subsection L, added Paragraph (3), redesigned the subsequent paragraphs accordingly, and substituted “decision making described under Subsection L of this section” for “decision making described under the definition of joint custody” in Paragraph (7); and made stylistic changes throughout the section.

ANNOTATIONS

The “holding out” provision with regard to paternity applies to women. — Where petitioner alleged that petitioner and respondent, who both were women, had a committed, long-term domestic relationship; they agreed to bring a child into their relationship; respondent adopted a child; petitioner never adopted the child; and petitioner supported respondent and the child financially, lived in the family home, held the child out as petitioner’s natural child, and co-parented the child for a number of years before the parties dissolved their relationship; petitioner had standing to file an action under 40-11-12NMSA 1978 (repealed, see 40-11A-601 and 40-11A-602 NMSA 1978) because petitioner alleged sufficient facts to satisfy the hold out provision of Subsection A(4) of 40-11-5 NMSA 1978 (repealed, see 40-11A-204 NMSA 1978) and if petitioner were able to establish a parent child relationship under the Uniform Parentage Act (repealed, see New Mexico Uniform Parentage Act, Chapter 40, Article 11ANMSA 1978), then petitioner would have standing to seek joint custody of the child under 40-4-9.1 NMSA 1978. *Chatterjee v. King*, 2012-NMSC-019, 280 P.3d 283, rev’g 2011-NMCA-012, 149 N.M. 625, 253P.3d 915.

Recreational expenses. — The requirement for including recreational expenses is implicit in the statutory provision governing joint custody. Section 40-4-9.1(J) (4) (e) NMSA 1978 states that when joint custody is awarded, “whatever recreational activities the child participated in during the marriage should continue with the child’s agreement, regardless of which of the parents has physical custody.” This provision represents a legislative recognition of the importance of recreational activities to children. But the importance of an activity is not in itself a reason for separate inclusion of the expense for that activity in the child support guidelines. All ordinary expenses are presumably taken into consideration in establishing the guidelines for basic child support. The child support awarded under the guidelines should be adequate to feed and shelter the children, and to provide for recreational activities. *Rosen v. Lantis*, 1997-NMCA-033, 123 N.M. 231, 938 P.2d 729.

Standing of non-parent to bring a custody claim. — Absent a showing of unfitness of the natural or adoptive parent, a person who is not the natural or adoptive parent does not have standing to bring a claim for custody. *Chatterjee v. King*, 2011-NMCA-012, 149 N.M. 625, 253 P.3d 915, cert. granted, 2011-NMCERT-001, 150 N.M. 558, 263 P.3d 900.

Where petitioner and respondent were in a committed relationship for several years; respondent adopted a child; petitioner did not adopt the child; petitioner and respondent lived as a family, jointly raised the child, and held themselves out as parents; petitioner provided financial and emotional support for the child, cared for the child, and formed a parental relationship with the child; and respondent ended the relationship and moved out with the child, petitioner did not have standing to bring a claim for custody of the child. *Chatterjee v. King*, 2011-NMCA-012, 149 N.M. 625, 253 P.3d 915, cert. granted, 2011-NMCERT-001, 150 N.M. 558, 263 P.3d 900.

Standing of non-parent to bring claim for visitation. — The requirement that a non-parent show unfitness of a natural or adoptive parent before a court can consider a non-parent for custody is not relevant to a determination of visitation and a non-parent who establishes a prima facie case for a parent and child relationship may assert a claim for visitation. *Chatterjee v. King*, 2011-NMCA-012, 149 N.M. 625, 253 P.3d 915, cert. granted, 2011-NMCERT-001, 150 N.M. 558, 263 P.3d 900.

Where petitioner and respondent were in a committed relationship for several years; respondent adopted a child; petitioner did not adopt the child; petitioner and respondent lived as a family, jointly raised the child, and held themselves out as parents; and petitioner provided financial and emotional support for the child, cared for the child, and formed a parental relationship with the child, petitioner had colorable claim for standing to bring a claim for visitation. *Chatterjee v. King*, 2011-NMCA-012, 149 N.M. 625, 253 P.3d 915, cert. granted, 2011-NMCERT-001, 150 N.M. 558, 263 P.3d 900.

Joint custody not infringement on right to travel or relocate. — An order providing for joint custody and requiring the mother to give physical custody of her child to the father unless she returned to New Mexico did not unlawfully infringe upon her right to travel or to relocate. *Alfieri v. Alfieri*, 105 N.M.373, 733 P.2d 4 (Ct. App. 1987).

Presumption regarding joint custody. — There is a presumption that joint custody is in the best interests of the child. *Grant v. Cumiford*, 2005-NMCA-058, 137 N.M. 485, 112 P.3d 1142.

Court, in determining support, should consider all relevant factors. — Where primary custody of children is split between the parties and issues of child support are involved, the court in its broad discretion should consider all of the relevant factors and circumstances in order to achieve a fair balancing of the equities in light of the best interests and welfare of the children and the financial resources of the parents. *DeTevis v. Aragon*, 104 N.M. 793, 727 P.2d 558 (Ct. App. 1986).

Factors considered. — In considering whether joint custody would promote the best interests of a child, the trial court must determine: (1) whether the child has established such relationships with both parents that he or she would benefit from joint custody; (2) that both parents are fit; (3) that both parents desire continuing involvement with the child; and (4) that both parents are able to communicate and cooperate in promoting the child's best interests. The ability to cooperate concerning joint child custody does not require the parents to have a totally amicable relationship, however: a successful joint custody arrangement requires that the parents be able to isolate their personal conflicts from their roles as parents and that the children be spared whatever resentments and rancor the parents may harbor. *Sanchez v. Sanchez*, 107 N.M. 159, 754 P.2d 536 (Ct. App.), cert. denied, 107 N.M. 151, 754 P.2d 528(1988).

Discretion of trial court. — A trial court has wide discretion in awarding custody of a child in a divorce case, and the welfare of the child is of primary importance in making the award. *Creusere v. Creusere*, 98 N.M. 788, 653 P.2d 164 (1982).

Modification is discretionary. — Whether modification of the initial agreement is appropriate is a matter entrusted to the sound discretion of the trial court, based upon the evidence submitted by the parties. *Jeantete v. Jeantete*, 111 N.M. 417, 806 P.2d 66 (Ct. App. 1990).

Scope of statement required in court's order. — The requirement, under the provisions of former Subsection B which are similar to those in present Subsection I, that the court must state its reasons for modifying a joint custody order is not satisfied by a simple statement that the circumstances of the parties and their minor child have materially changed since the entry of the final decree. *Jaramillo v. Jaramillo*, 103 N.M. 145, 703 P.2d 922 (Ct. App. 1985).

Requirement of statement in the custody order. — The plain language of this section requires the court to set forth in its decision the basis for its determination either granting or denying joint custody. *Jeantete v. Jeantete*, 111 N.M. 417, 806 P.2d 66 (Ct. App. 1990).

Adequacy of statement in court order. — Trial court adequately articulated the basis for its denial of a motion for modification of visitation, where the motion did not specifically seek the granting or denial of joint custody, and the court's order denying modification recited in applicable part: "the motion is denied because the father failed to allege or prove the existence of a material change of circumstances relating to the child." *Jeantete v. Jeantete*, 111 N.M. 417, 806 P.2d 66 (Ct. App. 1990).

Joint custody award. — As specified by Subsection J(1), an award of joint custody means that "each parent shall have significant, well-defined periods of responsibility for the child"; however, joint custody awards need not equally divide the time period relating to the child's physical custody. *Jeantete v. Jeantete*, 111 N.M. 417, 806 P.2d 66 (Ct. App. 1990).

When joint custody parents fail to accommodate one another and cannot reach agreement, even with the assistance of counselors, conciliators, mediators or arbitrators, the court has few options available; it may make the controverted decision itself and enforce its determination without changing the legal status of the parents, or it may reevaluate the best interests of the children in light of either or both parents' failure to fulfill joint custody responsibilities, and modify their custody. *Strosnider v. Strosnider*, 101 N.M. 639, 686 P.2d 981 (Ct. App. 1984).

Discretion of court in making award. — Where a mother, in the Marine Corps, had lived in six different locales in five years, and the father, because of his work schedule, allowed the parties' minor child to live with his sister, the court did not err in awarding father physical custody, but requiring him to maintain the child's present residence with her aunt, while maintaining joint legal custody. *Brito v. Brito*, 110 N.M. 276, 794 P.2d 1205 (Ct. App. 1990).
Determination not overturned absent abuse of discretion. — The determination of the trial judge in a joint custody decision, who saw the parties, observed their demeanor and heard their testimony will not be overturned absent a manifest abuse of discretion. *Creusere v. Creusere*, 98 N.M. 788, 653 P.2d 164 (1982).

Denial of joint custody for incompatibility. — The trial court did not abuse its discretion in denying joint custody and in granting sole custody to the wife when the level of incompatibility between the husband and wife was not in the child's best interest and, thus, did not support joint custody of the child. *Creusere v. Creusere*, 98 N.M. 788, 653 P.2d 164 (1982).

Burden on party seeking to modify joint custody decree. — A party seeking to modify a decree of joint custody must overcome the presumption of the reasonableness of the original decree. *Jeantete v. Jeantete*, 111 N.M. 417, 806 P.2d 66 (Ct. App. 1990).

Burden of proof in modification of joint custody arrangements. — In a joint custody arrangement, when one party initiates a proceeding to alter an existing custody arrangement, the party seeking such change has the burden to show that the existing arrangement is no longer workable. Each party will then have the burden to persuade the court that the new custody arrangement or parenting plan proposed by him or her should be adopted by the court, but that party's failure to carry this burden will only mean that the court remains free to adopt the arrangement or plan that it determines best promotes the child's interests. *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

Notice and hearing required. — Joint custody cannot be terminated except after a hearing following specific notice that continuation of joint custody will be at issue. *Taylor v. Tittman*, 120 N.M. 22, 896 P.2d 1171 (Ct. App. 1995).

Modification of joint custody warranted. — Whether or not there was proof of "emotional damage" per se, the observation that the parties' continuing inability to cooperate was affecting the children was sufficient change in circumstance to support the modification of joint custody. *Thomas v. Thomas*, 1999-NMCA-135, 128 N.M. 177, 991 P.2d 7, cert. denied, 128 N.M. 150, 990 P.2d 824 (1999).

Modification to joint custody reversed. — Judgment changing sole custody in the mother to joint legal custody, unless and until the mother was able to comply with a parenting plan agreed to by the parties, was reversed, where the trial court's findings failed to resolve basic issues material and necessary to a determination that modification of the initial custody agreement to joint custody was in the best interests of the children. *Newhouse v. Chavez*, 108 N.M. 319, 772 P.2d 353 (Ct. App. 1988), cert. denied, 108 N.M. 197, 769 P.2d 731 (1989).

Relocation of custodial parent. — In situations in which one parent has sole custody of the child, the custodian seeking to relocate with a child is entitled to a presumption that the move is in the best interests of the child, and the burden is on the noncustodial parent to show that the move is against those interests or motivated by bad faith on the part of the custodial parent. However, the designation of one parent as "primary physical custodian" under a court-approved parenting plan in a joint custody situation simply means that the child resides with that parent more than half the time. Consequently, one parent's status as primary physical custodian has no particular significance and should not entitle that parent the benefit of any presumption. *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

Burden on relocating party impermissible. — In joint custody cases, placing the burden on the party seeking to relocate to show that the relocation is in the best interests of the child unconstitutionally impairs the relocating parent's right to travel. *Jaramillo v. Jaramillo*, 113 N.M. 57, 823 P.2d 299 (1991).

Mediation not required. — The language of Subsection G of this section and 40-4-8B (1) NMSA1978 permits the court to bypass mediation if it does not appear to be feasible, even in non-domestic violence or abuse situations. *Thomas v. Thomas*, 1999-NMCA-135, 128 N.M. 177, 991 P.2d 7, cert. denied, 128 N.M. 150, 990 P.2d 824 (1999).

Law reviews. — For annual survey of New Mexico law relating to domestic relations,

see 12 N.M.L.Rev. 325 (1982).

Annual Survey of New Mexico Family Law, see 17 N.M.L. Rev. 291 (1987). For annual survey of domestic relations law in New Mexico, see 18 N.M.L. Rev. 371 (1988).

For article, "Children's Rights v. Parents' Rights: A Proposed Solution to the Custodial Relocation Conundrum," see 29 N.M.L. Rev. 245 (1999).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Necessity of requiring presence in court of both parties in proceedings relating to custody or visitation of children, 15 A.L.R.4th 864.

Propriety of awarding joint custody of children, 17 A.L.R.4th 1013. Religion as factor in child custody and visitation cases, 22 A.L.R.4th 971. Post majority disability as reviving parental duty to support child, 48 A.L.R.4th 919. Parent's transsexuality as factor in award of custody of children, visitation rights, or termination of

parental rights, 59 A.L.R.4th 1170.

State court's authority, in marital or child custody proceeding, to allocate federal income tax dependency exemption for child to noncustodial parent under § 152(e) of the Internal Revenue Code (26USCS § 152(e)), 77 A.L.R.4th 786.

Child custody and visitation rights of person infected with AIDS, 86 A.L.R.4th 211.

Application of child-support guidelines to cases of joint-, split-, or similar shared-custody arrangements, 57 A.L.R.5th 389.

40-10C-8. Provisions and measures to prevent abduction.

A. If a petition is filed pursuant to the Uniform Child Abduction Prevention Act, the court may enter an order that shall include:

- (1) the basis for the court's exercise of jurisdiction;
- (2) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;
- (3) a detailed description of each party's custody and visitation rights and residential arrangements for the child;
- (4) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and
- (5) identification of the child's country of habitual residence at the time of the issuance of the order.

B. If at a hearing on a petition pursuant to the Uniform Child Abduction Prevention Act or on the court's own motion, the court, after reviewing the evidence, finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order shall include the provisions required by Subsection A of this section and measures and conditions, including those set forth in Subsections C, D and E of this section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted and the reasons for the potential abduction, including evidence of domestic violence, stalking or child abuse or neglect.

C. An abduction prevention order may include one or more of the following:

- (1) an imposition of travel restrictions that requires that a party traveling with the child outside a designated geographical area provide the other party with the following:
 - (a) the travel itinerary of the child;
 - (b) a list of physical addresses and telephone numbers at which the child can be reached at specified times; and
 - (c) copies of all travel documents;
- (2) a prohibition of the respondent directly or indirectly:
 - (a) removing the child from this state, the United States or another geographic area without permission of the court or the petitioner's written consent;
 - (b) removing or retaining the child in violation of a child-custody determination;
 - (c) removing the child from school or a child care or similar facility; or
 - (d) approaching the child at any location other than a site designated for supervised visitation;
- (3) a requirement that a party register the order in another state as a prerequisite to allowing the child to travel to that state;
- (4) with regard to the child's passport:
 - (a) a direction that the petitioner place the child's name in the United States department of state's child passport issuance alert program;
 - (b) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child; and
 - (c) a prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa;
- (5) as a prerequisite to exercising custody or visitation, a requirement that the respondent provide:
 - (a) to the United States department of state office of children's issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child;
 - (b) to the court: 1) proof that the respondent has provided the information in Subparagraph (a) of this paragraph; and 2) an acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, nor passport issued, on behalf of the child;
 - (c) to the petitioner, proof of registration with the United States embassy or other United States diplomatic presence in the destination country and with the central authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects; and
 - (d) a written waiver pursuant to the Privacy Act of 1974, 5 U.S.C. Section 552a, as amended, with respect to any document, application or other information

pertaining to the child authorizing its disclosure to the court and the petitioner; and

(6) upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

D. In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(2) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction; and

(3) require the respondent to obtain education on the potentially harmful effects to the child from abduction.

E. To prevent imminent abduction of a child, a court may:

(1) issue a warrant to take physical custody of the child pursuant to Section 9 of the Uniform Child Abduction Prevention Act;

(2) direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child or enforce a custody determination pursuant to the Uniform Child Abduction Prevention Act; or

(3) grant any other relief allowed pursuant to the law of this state other than the Uniform Child Abduction Prevention Act.

F. The remedies provided in the Uniform Child Abduction Prevention Act are cumulative and do not affect the availability of other remedies to prevent abduction.

G. A court shall not require the disclosure of a confidential communication that is protected by the Victim Counselor Confidentiality Act [31-25-1 through 31-25-6 NMSA 1978], the physician-patient privilege or the psychotherapist-patient privilege.

History: Laws 2013, ch. 156, § 8.
Effective dates. — Laws 2013, ch. 156, § 13 made the Uniform Child Abduction Prevention Act effective January 1, 2014.

NM CHILDREN'S CODE

32A-4-3. Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty.

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

(1) a local law enforcement agency;

(2) the department; or

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure

that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

History: 1978 Comp., § 32A-4-3, enacted by Laws 1993, ch. 77, § 97; 1997, ch. 34, § 2; 2003, ch. 189, § 1; 2005, ch. 189, § 38.

The 2005 amendment, effective June 17, 2005, deleted the requirement in Subsections A and B that reports be made to the department office in the county where the child resides; and provided in Subsections C and D that a law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of abuse and neglect.

The 2003 amendment, effective July 1, 2003, in Subsection A, deleted “but not limited to” near the beginning, inserted “or a member of the clergy who has information that is not privileged as a matter of law” following “an official capacity”; substituted “agency” for “agencies” in Paragraph A(3); substituted “A department office” for “Any office of the department” preceding “receiving a report” in Subsection B.

The 1997 amendment, effective July 1, 1997, inserted “responsibility to investigate child abuse or neglect” in the section heading, deleted “or persons” following “person” in the next-to-last sentence in Subsection B, substituted “alleged abused” for “abused” in the second sentence in Subsection C and in the second sentence in Subsection D, added the third sentence in Subsection C, deleted former Subsection D relating to abuse or neglect of a child while in the care of a child care facility or family daycare home, re-designated former Subsections E to G as Subsections D to F, and substituted “by local law enforcement” for “through the office of the district attorney” at the end of the first sentence in Subsection D.

ANNOTATIONS

Scope of duty to report child abuse. — The statutory requirement to report child abuse does not apply to every person, but instead applies to the categories of people listed in Section 32A-4-3(A) NMSA 1979 and other professionals or government officials who are likely to come into contact with abused and neglected children during the course of their professional work. *State v. Strauch*, 2014-NMCA-020, cert. granted, 2014-NMCERT-001.

Duty of social workers to report child abuse. — The mandatory reporting requirement set forth in Section 32A-4-3(A) NMSA 1978 applies principally to social workers in school and other governmental settings. *State v. Strauch*, 2014-NMCA-020, cert. granted, 2014-NMCERT-001.

Social worker acting as a private mental health provider. — Where defendant, who was charged with criminal sexual penetration of a minor, made confidential communications to a licensed social worker during private counseling sessions for the purpose of diagnosis and treatment; and defendant’s ex-spouse participated in the counseling sessions, defendant had the privilege pursuant to Rule 11-504 NMRA to refuse to disclose and to prevent the social worker and defendant’s ex-spouse from disclosing information defendant communicated during the counseling sessions because the mandatory reporting requirement in Section 32A-4-3(A) NMSA did not apply to the social worker or to defendant’s ex-spouse. *State v. Strauch*, 2014-NMCA-020, cert. granted, 2014-NMCERT-001.

Decisions under prior law. — In light of the similarity of the provisions, annotations decided under former Section 32-1-15 NMSA 1978 have been included in the annotations to this section.

Dismissals from human services department were in accordance with law and supported by substantial evidence, which included the failure to promptly report the alleged sexual abuse of a child to the proper authorities. *Perkins v. Dep't of Human Servs.*, 106 N.M. 651, 748 P.2d 24 (Ct. App. 1987).

Requirement of “consultation” in Section 32-1-15 NMSA 1978 is not due process pre-deprivation hearing requirement, and plaintiff day-care center operator’s constitutional right to due process was not violated by the human services department’s transfer of state subsidized children to other facilities and suspension of federal funds pending completion of an investigation. *Rice v. Vigil*, 642F. Supp. 212 (D.N.M. 1986), *aff’d sub nom. Rice v. N. M.*, 854 F.2d 1323 (10th Cir. 1988).

Law reviews. — For comment, “The Freedom of the Press vs. The Confidentiality Provisions in the New Mexico Children’s Code,” see 4 N.M.L. Rev. 119 (1973). For article, “Salt in the Wounds: Why Attorneys Should Not be Mandated Reporters of Child Abuse”, see 36 N.M. L. Rev. 125 (2006).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 42 Am. Jur. 2d Infants § 16.

Criminal liability for excessive or improper punishment inflicted on child by parent, teacher, or one in loco parentis, 89 A.L.R.2d 396.

Sexual abuse of child by parent as ground for termination of parent’s right to child, 58 A.L.R.3d 1074.

Parent’s involuntary confinement, or failure to care for child as result thereof, as evincing neglect, unfitness or the like in dependency or divestiture proceeding, 79 A.L.R.3d 417.

Admissibility of expert medical testimony on battered child syndrome, 98 A.L.R.3d 306. Validity and construction of penal statute prohibiting child abuse, 1 A.L.R.4th 38.

Validity, construction, and application of state statute requiring doctor or other person to report child

abuse, 73 A.L.R.4th 782.

Physical examination of child’s body for evidence of abuse as violative of Fourth Amendment or as raising Fourth Amendment issue, 93 A.L.R. Fed. 530.

43 C.J.S. Infants § 14.

NM SUPREME COURT RULES

1-125. Domestic Relations Mediation Act programs. (1)

A. **Applicability.** This rule shall apply only to domestic relations proceedings which involve custody, periods of parental responsibility or visitation of minor children pending in a judicial district that has established a domestic relations mediation program, safe exchange program, or supervised visitation program pursuant to the Domestic Relations Mediation Act. This rule shall not apply to referrals to private programs by stipulation of the parties or preclude court from operating a program for no fee.

B. **Referral by court.** If the parties to a domestic relations action involving minor children have not filed a parenting plan pursuant to Section 40-4-9.1 NMSA 1978, unless binding arbitration is pending pursuant to Section 40-4-7.2 NMSA 1978, the court may order the parties to:

- (1) attend a general information session;
- (2) meet with a counselor designated by the court;
- (3) participate in mediation;
- (4) participate in priority consultation pursuant to this rule; or
- (5) participate in advisory consultation pursuant to this rule.

C. **Mediation; parenting plan.** If the court orders the parties to participate in mediation, if the mediation is successful, the counselor or mediator shall prepare a parenting plan which shall be submitted to the parties and their respective counsel for approval. When the parenting plan has been signed it shall be submitted to the court for approval together with an order approving it.

D. Priority consultation. The court may refer the parties to a priority consultation pursuant to the Domestic Relations Mediation Act. Upon conclusion of a priority consultation, the consultant shall prepare written recommendations to the court which shall be filed with the court and served on the parties. If a party does not agree with the recommendations, within eleven(11) days of the filing of the priority consultation recommendations, the party shall file a motion specifically describing the reasons for the party's objections to the recommendations. The party's objections shall be served on all other parties. The opposing party may file a written response within eleven (11) days after the date of service of the objections. No reply may be filed. If no objections are filed within eleven (11) days after service of the recommendations, an order adopting the recommendations shall be entered.

E. Advisory consultations. The court may enter an order requiring the parties to submit to an advisory consultation. The order shall be substantially in the form approved by the Supreme Court. At the conclusion of an advisory consultation a report shall be prepared and served on each party. The person preparing the report shall also prepare and file with the court written recommendations. The written recommendations filed with the court shall not contain the basis for the recommendations. If a party does not agree with the recommendations, within eleven (11) days of the filing of the advisory consultation recommendations, the party shall file a motion specifically describing the reasons for party's objections to the recommendations. The party's objections shall be served on all other parties. The opposing party may file a written response within eleven (11) days after service of the objections. No reply may be filed. If no objections are filed within eleven (11) days after service of the recommendations, an order adopting the recommendations shall be entered.

F. Confidentiality. All communications made by any person who participates in mediation proceedings pursuant to this rule are confidential except that there is no protection for information derived from such communications which a participant is required by law to report to a law enforcement officer or state agency. The Mediation Procedures Act, Sections 44-7B-1 to 44-7B-6 NMSA 1978, shall apply to proceedings commenced under this rule.

G. Conduct in domestic relations mediation programs. The parties to a domestic relations mediation proceeding commenced under this rule are expected to participate in good faith, but sanctions shall not be imposed for failure to settle or compromise any claim or defense.

H. Safe exchange or supervised visitation programs. The court may establish a safe exchange program or supervised visitation program under Section 40-12-5.1 NMSA 1978. The court may order the parties to use the services of a safe exchange program or supervised visitation program when the court determines that the child's best interest will be served by avoiding contact or confrontation between the parents during exchanges of custody or by providing supervised contact between a parent and the child.

I. Sliding fee scales.

(1) Any party who is ordered to participate in a domestic relations mediation program, safe exchange program, or supervised visitation program under this rule shall pay a fee in accordance with a sliding fee scale under Section 40-12-5 NMSA 1978 or Section 40-12-5.1 NMSA 1978. Any fees payable under this rule may be reallocated between the parties in the district court's discretion as appropriate. If a district court elects to operate a domestic relations mediation program, safe exchange program, or supervised visitation program under this rule, either in-house with court staff or by contracting with an outside service provider, the court shall submit a proposed sliding fee scale to the Supreme Court for its approval. Nothing in this rule shall preclude a court from operating a program for no charge.

(2) When submitting a proposed sliding fee scale for the Supreme Court's consideration, the district court shall do the following:

(a) provide the Supreme Court with detailed information regarding the costs incurred by the district court for operating an in-house program or contracting with an outsider service provider to provide services under this rule;

(b) explain how the district court arrived at the cost it proposes to charge each party receiving services from the domestic relations mediation program, safe

exchange program, or supervised visitation program;

(c) submit a separate sliding fee scale for each type of program services the court elects to provide under Paragraphs C, D, E, or H of this rule;

(d) structure the proposed sliding fee scale based on the party's gross income and proportionate ability to pay; and

(e) if the Supreme Court approves the proposed sliding fee scale, the district court shall post the sliding fee scale in the courthouse and on the court's web site.

[Approved, effective November 1, 2000 until November 1, 2001; approved, effective November 1, 2001; as amended by Supreme Court Order No. 09-8300-013; effective May 18, 2009; by Supreme Court Order No. 10-8300-038, effective December 31, 2010; by Supreme Court Order No. 12-8300-029, effective for all cases filed or pending on or after January 7, 2013.]

Committee commentary. — The committee is aware that some judicial districts have non-disclosure and confidentiality local rules. The committee does not believe that this is a matter for local district court rules. Any local rules and forms containing good faith participation requirements shall conform to the provisions of this rule. The committee takes no position on how individual courts may choose to administer the collection of fees payable under rule. [Adopted by Supreme Court Order No. 10-8300-038, effective December 31, 2010; as amended by Supreme Court Order No. 12-8300-029, effective for all cases filed or pending on or after January 7, 2013.]

COMPILER'S ANNOTATIONS

Cross references. — For statutory duty to report child abuse and neglect cases, see Section 32A-4-3 NMSA 1978.

For the Domestic Relations Mediation Act, see Sections 40-12-1 to 40-12-6 NMSA 1978.

Compiler's notes. — Pursuant to a court order dated October 3, 2000, this rule was provisionally approved for twelve months effective November 1, 2000. Subsequently, by a court order dated October 29, 2001, this rule was approved and adopted in its final form, effective November 1, 2001.

The 2009 amendment, approved by Supreme Court Order 09-8300-013, effective May 18, 2009, in Paragraph F, changed the title from "Privileges" to "Confidentiality"; and replaced "privileged" with "confidential" for communications made during mediation proceedings under this rule, and, replaced "privilege" with "protection" for information derived from these communications, which the law requires be reported to a law enforcement officer or state agency.

The 2010 amendment, approved by Supreme Court Order No. 10-8300-038, effective December 31, 2010, in Paragraph F, added the last sentence and added Paragraph G; and in the committee commentary, added the last sentence.

The 2012 amendment, approved by Supreme Court Order No. 12-8300-029, effective January 7.

Please note the enactment of new laws and rule may occur after the publication date of this Best Practices Manual. The reader is urged to consult current laws, which are available at the following link: <http://www.nmonesource.com/nmnxtadmin/NMPublic.aspx>

NEW MEXICO COURT STANDARDS FOR SAFE EXCHANGE AND SUPERVISED VISITATION

PREAMBLE: The Safe Exchange and Supervised Visitation Program will provide services as ordered by the Courts in New Mexico to conduct safe exchanges and supervised visitations between children and their parents to enable them to maintain their relationships in a safe and stable environment.

CHAPTER 1: PURPOSE

This document establishes minimum practice standards for professional safe exchange and supervised visitation services, as set forth in Chapter 40, Article 12 (NMSA 1978).

CHAPTER 2: SAFE EXCHANGE AND SUPERVISED VISITATION PROVIDERS

A. Professional safe exchange and supervised visitation services shall be provided by the staff of a free-standing agency or a subdivision or program of a larger agency that are qualified for and trained in the delivery of safe exchange and supervised visitation services.

B. Providers shall offer only safe exchange and supervised visitation services that are consistent with the education, training, experience, and capacity of their staff and program.

C. Providers shall ensure that their paid staff, volunteers, and interns who provide safe exchange and supervised visitation services are trained and qualified according to these Standards and other training materials approved by the AOC.

CHAPTER 3: PROVIDER STAFF QUALIFICATIONS AND TRAINING

A. Staff Qualifications

(1) Background Checks and Screening

Applicants for both paid and unpaid positions shall complete a national criminal background check and clearance before the provider makes a final decision to hire the applicant. Current provider staff shall complete a national criminal background check and clearance at three-year intervals after the initial hiring date. Trained staff that leave an agency and are rehired after an absence of 180-day or more shall complete a national criminal background check and clearance before the final decision to rehire the applicant.

(2) Minimum Qualifications

Staff for both paid and unpaid positions shall meet the following minimum qualifications:

- (a) Be at least 18 years of age;
- (b) Have no conviction of child molestation, child abuse, or other crime relating to children;
- (c) Have no conviction during the last five years of a violent crime or probation or parole for conviction of a violent crime; and

(d) Have no civil or criminal restraining order during the last five years relating to domestic matters or domestic violence issued against the person that would indicate an inappropriate level of risk.

(3) Special Qualifications

A provider transporting a client shall:

(a) Hold a valid New Mexico operator's license and vehicle registration that are appropriate for the vehicle being used;

(b) Have or be employed by the person or entity that has liability insurance for the vehicle being used;

(c) Ensure the vehicle is equipped with seat belts and child restraints in accordance with State law; and

(d) Have no conviction for the last five years of operating a motor vehicle while under the influence of alcohol or drugs.

(4) Language Access

Providers shall be able to communicate and understand the language being used by the parent and the child being supervised. If the exchange or visit monitor cannot communicate and understand the language being used by the parent and the child, the parent and child must be assisted through use of a neutral interpreter who is at least 18 years old.

B. Staff Training

(1) General Training Requirements

(a) Providers shall update their skills by obtaining training that corresponds to the exchange or visitation services they deliver.

(b) Providers shall ensure that staff completes the position-specific training listed in this section within six (6) months of the initial hiring date or date of promotion.

(c) A person who has not completed the required training may provide direct services only under the supervision of another person who has met the training requirements.

(d) After initial training hours are completed, providers shall annually complete ten (10) additional hours of training, during the fiscal year, in a topic related to the services delivered.

(2) Initial Training for Supervised Visitation Monitors

The initial twenty-four (24) hours of training for all supervised visitation monitors shall include the following: the New Mexico Court Standards for Safe Exchange and Supervised Visitation; safety for all participants; role of the provider; record-keeping procedures; child abuse reporting laws; conflicts of interest; confidentiality; screening, intervening, monitoring, and termination of visitation; developmental needs of children; issues relating to domestic violence, child abuse and neglect, sexual abuse, and substance abuse; legal responsibilities and obligations of a provider; and cultural sensitivity.

(3) Initial Training for Safe Exchange Monitors

A person providing only safe exchange services shall complete sixteen (16) hours of initial training in topics set forth in section B(2).

(4) Training for Provider Management

An individual provider or a person responsible for management of a safe exchange and supervised visitation program shall complete the training requirements set forth in section

B(2), and shall also complete an additional sixteen (16) hours of training in topics relating

to the management of a safe exchange and supervised visitation program.

(5) Training for Parent Coaching

A visitation monitor providing parent coaching shall complete additional training on intervention to promote change, parenting skills, and behaviors that facilitate positive attachment, separation and reconnection.

(6) Training for Therapeutic Supervision

A person providing therapeutic supervised visitation services shall hold a professional license in mental health in addition to completing the training requirements set forth in section B(2).

CHAPTER 4: SAFETY AND SECURITY PROCEDURES

A. General Policy for Safety

Providers cannot guarantee safety. Adult clients remain responsible and accountable for their own actions. Providers shall have written policies and procedures through which they endeavor to ensure the safety and welfare of children and parents. Such policies and procedures shall be developed when possible with the assistance of local law enforcement officials and describe the emergency assistance and responses that can be expected from law enforcement. The central criterion of safety is matching the capacity of the provider, the service delivered, and the needs of and the risk(s) presented by the family.

B. Premises

Providers shall design the physical layout of the premises for on-site safe exchange and supervised visitation services to protect the safety and security of participants.

C. Intake

(1) Providers shall conduct separate face-to-face intake interviews with each parent prior to the commencement of services. During the interview, providers shall obtain identifying information, and shall provide a copy of and explain program rules, policies and procedures to each parent.

(2) Providers shall obtain copies of current court orders, protection orders, reports of any written record of allegations of domestic violence or abuse, and in the case of a child's chronic health condition, an account of the child's health needs prior to the commencement of services.

D. Client-Provider Relationship

The physical safety measures described in this section do not substitute for providers establishing and maintaining a relationship with each client in an effort to reduce the

potential risk of harm.

E. Staff-to-Child Ratio

Providers shall manage the monitor-to-child ratio as appropriate to meet the risk needs in each case. When more than one child is a party to a visit or exchange, providers shall consider assigning more than one monitor to the family.

F. Critical Incidents

Providers shall have written policies and procedures that address critical incidents including documentation, reports to the Court and other agencies as needed, and immediate actions to take when trying to resolve the incident.

G. Security Personnel

Providers who employ or contract with security personnel shall ensure that security personnel are trained for the functions they deliver and have their own liability insurance.

H. Risk Assessment, Intervention and Termination of Services

(1) Risk Assessment

Providers may review and analyze client information and behavior to determine whether services may be provided safely, or to deny or suspend services due to potential risk of harm to a client or staff member.

(2) Intervention

Providers shall have written policies and procedures for intervening in and ending parent/child visits or exchanges in progress. Ending a client's parent/child contact may be a temporary measure, and is not the same as termination of services.

(3) Termination

Providers shall have written policies and procedures that set forth the reasons for which services may be terminated.

(4) Providers shall explain the reasons for the intervention or termination of services to each parent and document the action in the case file. Providers shall also report the reason for termination to the Court.

I. High Risk Cases of Child Sexual Abuse and Domestic Violence

(1) Child Sexual Abuse

Providers shall have written policies and procedures to provide for the safety of child and adult participants in the supervision of cases in which sexual abuse allegations or findings have been made.

(2) Domestic Violence

Providers shall have written policies and procedures to provide for safety of child and adult participants in the supervision of cases in which domestic violence allegations or findings have been made.

CHAPTER 5: PROGRAM RESPONSIBILITIES

A. Role of the Provider

(1) Providers shall only offer safe exchange and supervised visitation

services and only serve the number of clients for which they have adequate financial and human resources;

(2) Providers shall know and understand the scope of their services and the limitations of their role, and explain this role to parents and other users of the services; and

(3) Providers shall regularly review the status of all open cases to monitor client compliance with the services rendered.

B. Program Policies and Procedures

Providers shall describe clearly and in writing the nature of the services they deliver and their rules, policies and procedures, including those about safety, and discuss them with and provide copies of them to parents. Such policies shall include a complaint procedure through which a client's concerns about services received or their perception of neutrality and/or conflicts of interest may be heard and addressed by the provider.

C. Neutrality and Conflict of Interest

(1) Neutrality

Neutrality means that providers will treat every client with respect and fairness, while protecting children attempting to maintain contact with their parents.

Neutrality does not mean providers will disregard violent or abusive behaviors of any kind.

(2) Conflict of Interest

Unless otherwise approved by the Court, providers and their staff shall not:

(a) Be financially dependent upon any member of a family using the provider's safe exchange and supervised visitation services;

(b) Be an employee or employer of any member of a family using the provider's safe exchange and supervised visitation services, or be employed by or a volunteer of the same or another agency providing services to a client; or

(c) Have an intimate or personal relationship with any member of a family using the provider's safe exchange and supervised visitation services.

D. Provider's Responsibility for the Child

(1) General Policy

Providers shall have written policies and procedures clearly defining parent and provider responsibilities, including policies regarding parent/child contact that is not covered by the Court order or agreement of the parents. The parent/child contact policies shall not delegate authority entirely to one of the parents.

(2) Refusal of Child to Visit

Providers shall have written policies and procedures for situations in which a child refuses to participate in visits or exchanges.

(3) Off-Site Safe Exchange and Supervised Visitation

(a) Providers of off-site safe exchanges and supervised visitations are responsible for negotiating in advance with the parents regarding the details of the location of the exchange or visit and who may participate in the exchange or visit.

(b) Providers shall consider and take into account the safety of all participants when determining whether or not to offer off-site safe exchanges and supervised visitations.

E. Referrals

(1) Accepting Referrals

- (a) Referrals are appropriate when made by order of a Court.
- (b) Providers in receipt of a Court referral that does not cover frequency, duration of parent/child contact, or type of service shall send the matter back to the Court for clarification when the parents disagree about the provision of service delivery. While awaiting clarification, providers may establish temporary conditions for the use of services, if the parents agree.

(2) Declining Referrals

- (a) Providers shall maintain written policies and procedures to screen for risk in each case.
- (b) Providers shall refuse to accept a case in which the provider cannot manage the safety needs of or risks presented by the family. Reasons for declining a referral include inadequate provider training, insufficient provider resources to deliver the service requested, and unmanageable safety or security risks.
- (c) Providers shall inform the Court in writing of the reason(s) for declining a referral.

F. Case Files and Records

(1) General Policy on Records

- (a) Providers shall create a file for every family and maintain it according to the confidentiality standard in this section of the Standards.
- (b) Providers shall maintain a factual record of each parent/child contact.
- (c) Providers shall maintain and store records and files for a minimum of three years after the last recorded activity, at which time records may be destroyed according to State law and regulation.

(2) Protection of Client Information

Providers shall set forth in writing, implement, and maintain policies and procedures which address the confidentiality and protection of client information, and the release of case information only as provided by law, Court order, or parental consent.

(3) Parent's Right to Review Records

- (a) Providers shall have written policies and procedures regarding a parent's right to review their own case file in accordance with state law.
- (b) Providers shall respond to a parent's request to review the case file, permitting the parent to review the file while excluding personal, confidential, and any other information protected by law about the other parent or the child.

G. Confidentiality

(1) General Policy Statement

- (a) Providers shall have written policies and procedures to address confidentiality and the limits of confidentiality, including but not limited to the submission to the Court of observation notes or reports.
- (b) Clients of safe exchange and supervised visitation providers do not have a privilege of confidentiality to protect against the subpoena of case records by the Court or another party as part of a Court proceeding.
- (c) Providers shall maintain confidentiality and refuse to disclose information without the written permission of the client(s), except as set forth under Section 5(G)(2) of the Standards.

(2) Exceptions to Confidentiality

Providers may release client information without specific client permission in the following situations:

- (a) In response to a subpoena;

- (b) To report suspected child abuse or neglect to the appropriate authority as required by law; and
- (c) To report danger or threats of harm to self or others as required by law.

H. Requests to Participate in or Observe Safe Exchanges and Supervised Visits

- (1) With regard to requests from clients for others to participate in the supervised visit or exchange:
 - (a) Providers shall have written policies and procedures to address a parent's request for others to participate in the supervised visit or safe exchange.
 - (b) Authorization for others to participate in a supervised visit or safe exchange must be obtained by the parent through Court order, the written approval of a judicial officer, or written agreement signed by both parents.
- (2) Requests from professionals to observe – Providers shall have written policies and procedures to address requests from professional practitioners to observe a supervised visit or safe exchange. Such policies and procedures shall include the conditions for the observation of the parent/child contact. of the parent/child contact.

I. Reports to Courts

- (1) Factual Reports
 - (a) Providers shall, with the assistance of the Court when possible, develop and maintain written policies and procedures regarding documentation for the Court, including policies and procedures for case reviews, any needed changes to the Court order, and whether or not participation in the services shall continue or terminate.
 - (b) In submitting documentation to the Court, providers shall limit reports to facts, observations and direct statements made by participants, and omit the provider's personal conclusions, suggestions, or opinions. Specifically, providers shall not make recommendations or offer opinions regarding the determination of child custody, exchange or visitation arrangements.
- (2) Cautionary Note on Reports or Observation Notes

When submitting reports or copies of observation notes to the Court, providers shall include a cautionary note describing the limitations on the way the information should be used.

J. Evaluations and Recommendations

- (1) General Policy
 - (a) Providers shall not perform mental health or other evaluations or assessments, except as specifically noted in this section of the Standards.
 - (b) Providers shall conduct safe exchange and supervised visitation services independently of a licensed or certified mental health professional, or any other professional who is performing a mental health, custody, parenting, developmental, or attachment assessment or evaluation of the client(s).
 - (c) This policy does not prohibit providers from making factual information based on observations of clients available to others in the conduct of an evaluation or assessment.
- (2) Therapeutic Supervised Visitation Exception

In the provision of therapeutic supervised visitation, a licensed mental health professional may prepare a written report to describe a parent's commitment or readiness for treatment, and may include a professional opinion about a parent or

child's readiness to enter the next phase of treatment. Such report, however, shall not offer an opinion or recommendation about child custody, safe exchange or visitation determinations.

K. Parent Fees for Services

(1) General Policy for Providers

(a) Providers shall establish written policies and procedures with regard to parent fees for services, including the amount and collection of fees and consequences for failure to pay. Policies and procedures shall:

(i) Implement the Court's order regarding the allocation of parent fees for services between one or both parents; or

(ii) If the Court order does not allocate parent fees, determine the amount of fees to be paid by one or both parents based upon the sliding fee scale established by the local Court and reflecting local economic conditions.

(b) Providers shall discuss their parent fee policies and procedures with each parent prior to the commencement of services.

(c) When the Court's order does not allocate parent fees and the parents do not agree with the provider's policy regarding the allocation of fees, the provider shall deny services until a parent-fee agreement is complete.

(2) General Policy for Parents

(1) Parents shall pay the cost of the safe exchange and supervised visitation services pursuant to a sliding fee scale established by the local Court, as set forth in State law.

(2) In order to receive services, parents shall pay the amount of fees allocated in the Court's order, or if not allocated by the Court order, according to the provider's policies.

CHAPTER 6: BASIC ADMINISTRATION

A. Liability Insurance

Providers shall obtain and maintain liability or other insurance coverage appropriate to their business operations and the nature of the work and services delivered, including client transportation. The Administrative Office of the Courts shall establish the minimum amount required.

B. Financial Management

(1) Providers shall maintain financial records and follow generally accepted accounting principles. Financial records shall be retained for a minimum of seven years.

(2) Providers shall demonstrate that revenue collected from parent fees is accounted for separately from other program revenue or contract funds, and that expenditures of revenue generated from parent fees are accounted for separately from expenditures of other program revenue or contract funds.

C. Personnel Policies

Providers shall have written personnel policies and maintain personnel records for their staff and volunteers, including a grievance process.

D. Accessibility

Providers shall have written policies and procedures to address accessibility to safe exchange and supervised visitation services in terms of geographic location, transportation, hours of

operation, the Americans with Disabilities Act (ADA), and sensitivity to the ethnic, cultural, and linguistic needs of the community.

E. Sliding Fee Scale

- (1) The local Court shall establish a sliding fee scale for providers in the district to use for parent fees when a Court order for safe exchange and/or supervised visitation does not allocate fees.
- (2) The Court's sliding fee scale reflects local economic conditions within the district and may be based upon the number of persons in the individual's household and household income, as well as the Federal Poverty Guidelines of the U.S. Department of Health and Human Services.

CHAPTER 7: DEFINITIONS

The following definitions clarify terms used in these Standards.

- (1) **Assessment** means a component of the planned change effort in which a mental health practitioner collaborates with the client to obtain information that provides the foundation for developing a plan of intervention.
- (2) **Authorized person** means a person approved by the Court, or by agreement of the parents and the provider, to be present during the supervised contact.
- (3) **Case file** means a collection of records, reports, contracts, or other documents pertaining to a specific case.
- (4) **Child** means a person under the age of eighteen. (New Mexico Children's Code, Sec. 32A-1-4, NMSA 1978)
- (5) **Client** means a child or parent or authorized person to whom services are rendered. See also "child," "custodial parent," and "noncustodial parent" in this chapter.
- (6) **Court** means the local district court referring cases and who is party to the provider's contract.
- (7) **Critical incident** means an occurrence involving a client that threatens the safety or results in the injury of a participant that requires the intervention of a third party such as child protective services or the police. A child that accidentally trips and scrapes his/her knee does not constitute a critical incident.
- (8) **Custodial parent** means a biological or adoptive parent, guardian, or State agency or its representative(s) that has temporary or permanent physical custody of a child. A custodial parent may also be referred to as a "residential" parent.
- (9) **Domestic violence** means any form of physical, sexual, verbal, emotional, or economic abuse inflicted on any person in a household by a family or household member.
- (10) **Evaluation** means a component of the planned change effort in which a mental health practitioner and the client assess the progress and success of the planned change effort.

(11) **Group supervision** means supervision of parent/child contact in which more than one family is supervised by one or more visit monitors. Group supervision may also be referred to as “multiple-family” supervision.

(12) **Intermittent supervision** means parent/child contact in which a parent and child are supervised for part of the time and purposely left unattended by a visit monitor for certain periods of time.

(13) **Neutral/neutrality** as used in the context of supervised visitation means treating every client with respect and fairness, while protecting children as they attempt to maintain contact with their parents. Being neutral does not mean providers will disregard violent or abusive behaviors of any kind.

(14) **Noncustodial parent** means a biological parent or other adult who has supervised contact with a child. A noncustodial parent may also be referred to as a “visiting” or a “nonresidential” parent.

(15) **Off-site supervision** means supervision of parent/child contact that occurs away from a facility that is under the management of the provider.

(16) **One-on-one supervision** means parent/child contact supervised by at least one visit monitor focused on overseeing that contact.

(17) **On-site supervision** means supervision of parent/child contact at a facility that is under the management of the provider.

(18) **Parent** means a biological mother, father, or other adult, including an adoptive parent, guardian, or State agency or its representatives. See also Sections (8) and (14) in this Chapter.

(19) **Parent/child contact** means interaction between a parent or other authorized person and one or more children. Contact may be face-to-face, by mail and e-mail, telephone, video conference, or other means of communication.

(20) **Parent coached visitation** means contact between a parent and one or more children in the presence of a third person, in which the supervisor is actively involved in promoting behavioral change in parent/child relationships. Parent coaching may also be referred to as visitation that is “directed,” “educational,” “facilitated,” “supportive supervision,” or as “parent modeling.”

(21) **Participant** means a client, authorized person, provider, agency staff, or other on-site person.

(22) **Partner abuse** means a form of family violence involving abuse by one adult of another adult when they share an intimate relationship.

(23) **Provider** means a professional person or agency, paid or unpaid, that is experienced in and trained to deliver safe exchange and supervised visitation services.

(24) **Recommendation** means drawing conclusions and making statements about a professional opinion concerning future exchange and visitation

arrangements or child custody determination services.

(25) **Record** means an account of information or facts for a specific purpose. A case file may contain multiple records of visits and exchanges, records of payment and attendance, as well as a variety of other types of records. See also Section (3).

(26) **Risk Assessment** means the review and analysis of historical information and observation of behavior for the purpose of determining whether the probability of a client exhibiting dangerous behavior matches the capacity of a provider managing that behavior. Risk assessment as used in these Standards does not mean a mental health assessment.

(27) **Safe exchange** means supervision of the transfer of a child from the custodial to the noncustodial parent at the beginning of the parent/child contact and return to the custodial parent at the end of the contact. The supervision is usually limited to the exchanges, with the remainder of the noncustodial parent/child contact unsupervised. Exchanges may be supervised on or off the site. A safe exchange may also be referred to as “exchange monitoring,” “supervised transfer,” “monitored exchange,” “safe exchange,” and “neutral drop-off/pick-up.”

(28) **Safety** means protection from danger or risk of physical, psychological, or emotional injury.

(29) **Security** refers to measures put in place to effect safety.

(30) **Staff** means a person or group of persons, paid or unpaid, who are experienced in and trained to provide safe exchange and supervised visitation services.

(31) **Supervised visitation** describes parent/child contact overseen by a third party. The term also includes contact between a noncustodial parent and one or more children in the presence of a third person, in which the only focus is the protection and safety of the child and adult participants.

(32) **Therapeutic supervision** means conjoint parent/child therapy conducted by a licensed or certified mental health professional who is also trained to provide supervised visitation. Therapeutic supervision may also include a student or intern in training for a post-graduate degree who is under the direct supervision of a licensed or certified mental health professional.

(33) **Trainee** means to a person training to become a visit monitor and working under the direct supervision of a staff member responsible for his or her work. This definition includes interns and practicum students.

(34) **Visit monitor** means a person who observes and oversees safe parent/child contact during visits and during exchanges from one parent to another. A visit monitor includes an independent contractor and any employee, trainee, intern, or volunteer of an agency provider. A visit monitor may also be referred to as a “child access monitor,” “observer,” or “visitation specialist.”

Appendix B: Sample Forms

A. Routine Status Report

XX Judicial District
XX County
State of New Mexico

_____, petitioner

_____, respondent

Case No. _____

Judge/Commissioner: _____

Supervised Visitation/Exchange

Status Report

The above referenced case was referred to XXX on _____.

The court ordered _____ (frequency of contact).

TO THE COURT:

- Service has been taking place as per court order.
- Actual frequency of contact: _____.
- Request for review.

Party/Parties non-compliant:

- Non-payment by _____
- Violation of program rules by _____
- Multiple cancellations/no-shows by _____

Incident during service requiring action:

- Service continued w/warning to respective party
- Service suspended
- Services Cancelled
- Other (see observation below).

The following out of the extraordinary observation(s) were made
(observation, _____ date of observation):

B. Special Report

XX Judicial District
XX County
State of New Mexico

_____, petitioner

_____, respondent

Case No. _____

Judge/Commissioner: _____

**Supervised Visitation/Exchange
Special Report**

The above referenced case was referred to XXX on _____.

The court ordered _____ (frequency of contact).

TO THE COURT:

Request for:

Review

Other services _____

The following observation(s) were made warranting a special report
(observation, _____ date of observation):

_____.

C. Court Order

STATE OF NEW MEXICO
COUNTY OF _____
____ JUDICIAL DISTRICT

Petitioner,

v.

No. _____

Respondent.

**ORDER FOR USE OF
SAFE EXCHANGE AND SUPERVISED VISITATION (SESV) PROGRAM**
(Order to be coded as 8600)

Pursuant to NMSA 1978 40-12-5.1 (2009), it is the opinion of this Court that the best interests of the child(ren) in this matter will be served if confrontation or contact between the parents is avoided during exchanges of custody or if contact between a parent and a child is supervised.

This order concerns the following child(ren):

Name _____ YOB _____
Name _____ YOB _____
Name _____ YOB _____
Name _____ YOB _____

The Court file or proceedings indicate the following:

- ___ an Order of Protection or No Contact Order is in place
- ___ there is a history of, or allegations of a history of:
 - ___ domestic violence or abuse
 - ___ alcohol/drug abuse
 - ___ mental health issues
 - ___ other _____

IT IS THEREFORE HEREBY ORDERED AS FOLLOWS:

1. **The parties shall each contact the SESV Program within ___ days.** (Information attached)

2. This Order is for:

[] **Exchange of custody**

Exchange of custody shall be facilitated by the SESV Program according to the Program's policies and procedures. (Information attached)

Available times include: Monday - Friday at 8:30 and 5:30; Saturday at 9:00 and 5:00.

Days/Times _____

Days/Times _____

[] **Supervised visitation**

Visits with child(ren) by [] Petitioner [] Respondent shall be supervised by the SESV Program according to its policies and procedures. (information attached)

_____visits as coordinated by SESV Program with Petitioner and Respondent.

OR

_____visits per week/_____hour(s) at each visit. Parties shall contact the SESVProgram to arrange the days, times and length of each visit.

CONDITIONS OF VISITS:

- Persons who may accompany the parent at visitation are limited to:
Names: _____
- Persons other than the parent are not permitted at visitation.
- Other restrictions during visitation are as follows:

3. Costs

A. Intake fees are to be paid by each individual party.

B. Fees for visits or exchanges to be paid by:

___ Petitioner ___ Respondent

___ Both parties in accordance with the Program's sliding fee scale

C. Canceling or failing to appear

Any party failing to appear for a scheduled visit or exchange, or canceling the exchange or visit with less than 24 hours' notice, shall be responsible for the costs for all parties associated with that missed visit or exchange.

D. Interpreter services

Interpreter services are requested by the SESV Program for the use of the Program employees in monitoring exchanges/visits only, and not either of the parties or the child(ren). Services are provided by the Court. However, if an interpreter is scheduled for an exchange or visit and the party cancels the exchange or visit with less than 24 hours' notice, or fails to attend the exchange, the party who failed to attend or timely cancel the appointment shall be charged the interpreter's fee.

4. The parties are ordered to comply with the policies and procedures of the SESV Program. Failure to do so may result in a referral back to the Court and/or discontinuation of services. Failure to comply with this order or failure to pay for the services of the SESV Program may constitute contempt of court for which a fine or jail may be imposed.

5. This order shall remain in effect for six months or until further order of this or the domestic relations Court, whichever occurs sooner.

6. The SESV Program will send regular monthly/bi-monthly reports to the Court.

**A REVIEW HEARING is scheduled for _____, 20__, at _____ a.m./
p.m. at _____,
_____, New Mexico.**

Domestic Violence Commissioner/ Hearing Officer

the court may conduct a hearing to resolve the objections. (See Rule 1-053.1 (H)(1)(a) NMRA.
SO ORDERED:

DISTRICT JUDGE

DATE AND TIME APPROVED

cc:

Guardian ad litem; SESV Pro-
gram,
Parties

APPENDIX C: References

- Council on Accreditation. "Supervised Visitation and Exchange Services," 2014, pp. 8, 14, 23, 45. <http://coanet.org/standard/ca-sve/purpose.pdf>
- Governor's Commission on Domestic and Sexual Violence: Supervised Visitation in New Hampshire: Domestic Violence. 2009. Retrieved from <http://doj.nh.gov/criminal/victim-assistance/domestic-violence-commission.htm>
- Maxwell, S. M., & Oehme, K. "A Toolkit for Monitored Exchange Services." Clearinghouse on Supervised Visitation, Institute for Family Violence Studies. p 39. http://www.ncdsv.org/images/COSV_ToolkitForMonitoredExchangeServices.pdf
- Maxwell, S. M., & Oehme, K. (2004). Judicial Communication with Supervised Visitation Programs. *In Referrals To Supervised Visitation Programs: A Manual for Florida Judges*. Retrieved from <http://training.familyvio.csw.fsu.edu/manuals/judges/oldsite/print.htm>
- New Mexico Court Standards for Safe Exchange & Supervised Visitation. New Mexico Administrative Office of the Courts (2010). Retrieved from <https://safeexchange.nmcourts.gov/index.php/Court%20Standards%20for%20SESV%20-%20December%202010.pdf>
- Best Practices Manual for Supervised Access Service Providers*, Supervised Access Program, the Ministry of the Attorney General, Province of Ontario, Canada. (February, 2000)., https://safeexchange.nmcourts.gov/index.php/component/docman/doc_view/Ontario%20Best%20Practice%20Manual%20-%202001.pdf

Appendix D: SESV Program Assessment Tool

The AOC program assessment tool measures fidelity related to the level of service implementation for each of the 23 elements in the Safe Exchange & Supervised Visitation (SESV) Best Practice Manual. Each of these elements consists of components and the provider will be guided through a set of questions for each of these components. The questions include:

1. On a scale from 1-5, rate your level of implementation of this practice where '1' indicates not practiced at all and '5' indicates that this practice is implemented all of the time.
2. On a scale from 1-3, indicate whether or not there are policies and procedures in place for this practice where '1' means no, '2' means, partially, and '3' means yes.
3. Describe current application of procedures.
4. Does the agency see the need for improvement in this area? Responses include: Yes, have plans to improve; Yes, but no current plans; and, No.
5. Describe plans for improvement and identify any training or technical assistance needs.

While completing this assessment, it is important that all staff be involved in completing the tool. Once completed, the provider will be provided with a report of the results that can be used for the development of a quality improvement plan. This is not an audit but a review of the actual processes, services, and capabilities in place at the time of the assessment. It is essential that agency staff complete this with a critical eye and are completely honest regarding what is actually occurring at the service implementation level. Without this level of open and frank self-analysis, this tool will be rendered somewhat useless. The results belong to the provider agency and will inform what and where to apply current and future efforts at improving services through a continuous quality improvement process. Results will also be shared with AOC to help AOC understand how they can support the provider with training and technical assistance. This assessment is not a showcase, but an endeavor to significantly improve the provider's capability with regards to providing high quality SESV services to those who need it. Therefore it is imperative to make the most sincere effort in conducting the program assessment; doing so will magnify the positive effects to be gained from this process. Please refer to the SESV Best Practice Manual for detailed description of each of the components of this assessment tool.

Element #1: Referral Criteria	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
1.1 The Court takes into account the safety of the child(ren), provider and parent when referring cases.					

1.2 The Court takes into account the purpose of services when referring cases.					
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Element #2: Court Orders	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
2.1 The Court orders contain enough information to ensure safety when providing services.					
2.2 The Court orders contain the information as outlined in the SESV best practices manual.					
2.3 The Court order is delivered in a timely manner.					
2.4 The Court order is delivered directly to the provider in a reliable manner.					

Element #3: Judicial Education	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
3.1 The Court is aware of the service options.					
3.2 The Court is aware of and understands the benefits of SESV services.					
3.3 The referring Court revisits cases.					

3.4 The referring Court and provider have an agreement to ensure cases are revisited.					
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Element #4: Staffing	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
4.1 Staffing patterns meet the need to maintain safety and provide adequate supervision.					
4.2 Staff follow standard provider procedures and practices.					
4.3 Staff are prepared to address unforeseen or critical incidents.					
4.4 Provider identifies necessary staff qualifications.					
4.5 Staff receive regular and timely training so they can follow standard provider procedures and practices.					
4.5 Provider addresses qualification and staff needs systematically.					

Element #5: Premises	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
5.1 Any party's mode of arrival/ departure is accommodated for to ensure safety and security.					

5.2 Any party's time of arrival/ departure is planned to ensure safety and security.					
5.3 Party's use of entrances and parking areas is designated to ensure safety and security.					
5.4 The internal use of space ensures safety and security.					
5.5 The site has all needed security features to ensure safety and security.					
5.6 The site's rooms are child-proofed and free of potential safety hazards.					

Element #6: Critical Incidents	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
6.1 After a critical incident the provider submits a special report to the Court requesting guidance.					
6.2 The provider has created protocol for addressing possible critical incidents.					
6.3 Staff engage in practice 'drills' of protocol to address possible critical incidents.					

Element #7: High Risk Cases	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
7.1 Parties of high risk cases have arrival/ departure times scheduled to ensure safety.					
7.2 Provider is able to ensure the visits are free of anger, unkind or inappropriate remarks.					
7.3 Provider is able to ensure the visits are free of aggressive behavior and other inappropriate behaviors.					
7.4 Provider does not allow visits to happen when the visiting parent appears to be under the influence of alcohol or illegal drugs.					
7.5 Provider staff know how and when to report suspected child abuse or neglect.					

Element #8: Intake and Orientation	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
8.1 Each parent has a separate intake appointment.					
8.2 The provider collects personal information about the case.					

Element #8: Intake and Orientation	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
8.3 The provider creates a servicing plan that ensures the safety of the child(ren), parents, and staff.					
8.3 An orientation is conducted prior to the first supervised contact.					
8.3 Each parent has a separate orientation appointment.					
8.4 Orientation meetings address program rules.					
8.5 Orientation meetings address program procedures.					
8.6 Orientation meetings include completion of a parent agreement or contract.					
8.7 Orientation meetings include a tour of the facilities.					
8.8 Orientation meetings include a review of parent fees.					
8.9 Policies are the same for every parent and all parents are treated fairly.					
8.10 The provider has policies and procedures based on the <i>NM Court Standards</i> .					
8.11 The provider follows the court order first and then relies on provider policies and procedures.					

Element #9: Risk Assessment	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
9.1 Every intake includes a risk assessment.					
9.2 The risk assessment takes into consideration the nature of the risk.					
9.3 The risk assessment takes into consideration the magnitude of the risk.					
9.4 The risk assessment takes into consideration the qualifications and capacity of the provider.					
9.5 The provider notifies the family and referral source of any rejection including the reason the case cannot be served.					

Element #10: Case Staffing and Review by Providers	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
10.1 All cases are reviewed on a regular (at least quarterly) basis.					
10.2 Case reviews involves review of information and discussion of issues and concerns.					

10.3 During case review file information is updated.					
10.4 During case review safety needs are reassessed.					
10.5 During case review compliance and risk issues are reassessed.					
10.6 The service provider follows its policies and procedures regarding terminating services.					
10.7 When termination is considered due to noncompliance or non-payment the service provider meets with the parent(s) before closing the case.					

Element #11: Observation Notes	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
11.1 Observation notes are taken throughout SESV service delivery.					
11.2 Observation notes are factual.					
11.3 Observation notes include arrival time of each parent.					
11.4 Observation notes include notes about child(ren) and parent behavior and interaction upon arrival.					
11.5 Observation notes include notes about activities that occurred during the visit.					

11.6 Observation notes include notes about child(ren) and parent behavior and interaction during the visit.					
11.7 Observation notes include notes about the child(ren) and parent behavior and interaction at departure.					
11.8 Observation notes include the length of the visit.					
11.9 Observation notes include the departure time of each parent.					
11.10 Observation notes do not include personal opinions.					
11.11 Observation notes are not sent to the court unless (1) a provision for release of information is in the Court order, (2) if the information is subpoenaed, or (3) the information is included in routine reporting to the Court.					
11.12 Observation notes are not altered and errors are corrected by drawing a line through the text and making and initialing the change.					

Element #12: Staff Training and Supervision	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
12.1 The provider conducts regular supervision and evaluation of staff.					

12.2 The provider provides professional development and training opportunities in alignment with the <i>NM Court Standards</i> .					
12.3 Staff training includes basic safety information.					
12.4 Staff training includes more advanced training in service provision, as outlined in the best practices manual.					

Element #13: Visit and Exchange Management	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
13.1 Providers follow the <i>NM Court Standards</i> Chapter 5, H Requests to Participate in or Observe Safe Exchanges and Supervised Visits.					
13.2 Providers follow the <i>NM Court Standards</i> Chapter 5, K Parent Fees for Services.					
13.3 Providers follow the <i>NM Court Standards</i> Chapter 6, E Sliding Fee Scale.					
13.4 Providers follow the <i>NM Court Standards</i> Chapter 6, A Liability Insurance.					
13.5 Providers follow the <i>NM Court Standards</i> Chapter 6, B Financial Management.					
13.6 Providers follow the <i>NM Court Standards</i> Chapter 6, C Personnel Policies.					

Element #13: Visit and Exchange Management	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
13.7 Providers follow the <i>NM Court Standards</i> Chapter 6, D Accessibility.					
13.8 The provider follows established ground rules during SESV services.					
13.9 Staff know when to facilitate or intervene during SESV services.					
13.10 Staff facilitates or intervenes during SESV services as needed.					

Element #14: Collaboration and Coordination	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
14.1 The provider utilizes ways in which they create and maintain collaborative partnerships with referring Courts.					
14.2 The provider utilizes ways in which they create and maintain collaborative partnerships with community agencies.					

Element #15: Confidentiality	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
15.1 Staff ensure general confidentiality is maintained.					
15.2 Staff ensure that provider records are not shared with the Court unless (1) a provision for release of information is in the Court order, (2) if the information is subpoenaed, or (3) the information is included in routine reporting to the Court.					
15.3 The service provider is clear which information should be disclosed to the Court, the proper form, and appropriate time.					
15.4 The provider follows policies and procedures that align with the NM Court Standards to ensure that parties' right to confidentiality is maintained.					
15.5 The provider ensures confidentiality in the way the agency environment is used.					

Element #16: Neutrality and Conflict of Interest	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
16.1 Staff are guided and educated in regards to neutrality.					

Element #16: Neutrality and Conflict of Interest	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
16.2 Staff are guided and educated in regards to conflict of interest.					
16.3 Staff engage with neutrality no matter what they know about the case.					
16.4 Staff receive ongoing training on neutrality.					
16.5 Supervision and/or case staffing is used to help develop and maintain neutrality.					
16.6 In order to identify conflicts of interest, the provider takes into account appropriate considerations.					
16.7 In order to appropriately address conflicts of interest, provider takes into account appropriate considerations.					
16.8 Situations where a conflict of interest arises are addressed appropriately.					
16.9 Staff training relating to ethics and understanding conflict of interest is provided.					
16.10 Conflict of interest is considered throughout the course of the case and beyond.					

Element #17: Factuality	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
17.1 Reports and observation notes contain only facts and do not include opinions or recommendations.					
17.2 Staff participate in training to develop and maintain factual collection of information.					
17.3 The provider regularly reviews observation notes and reports for factuality.					

Element #18: Grievances	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
18.1 The provider has a process to resolve misunderstandings and disagreements between staff members or between the provider and the client.					
18.2 If possible conflicts will be resolved informally, but if necessary conversations with higher levels of supervision are used to address conflicts.					
18.3 The provider responds to all complaints.					
18.4 The provider makes every effort to resolve conflicts.					

18.5 The provider keeps appropriate records of grievances and their resolution.					
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Element #19: Reporting to the Court	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
19.1 The provider submits routine status reports directly to the Court.					
19.2 Routine status reports only contain factual information.					
19.3 Routine status reports include the items delineated in the best practices manual.					
19.4 The provider submits special reports directly to the Court when appropriate.					
19.5 Special reports only contain factual information.					
19.6 Special reports include the case caption and information providing the reason for the report.					

Element #20: Communication Procedures	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
20.1 Staff do not engage in ex parte communication.					
20.2 Reports are delivered regularly and in a timely manner.					
20.3 Reports are delivered directly to the court in a reliable manner.					

Element #21: Compliance Issues	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
21.1 The provider follows agency policies and procedures in regards to compliance issues.					
21.2 The provider coordinates plans for future services for a client with the referring Court.					
22.2 Noncompliance is noted in routine status reports.					
22.3 The provider has used one of several actions to resolve noncompliance issues, as outlined in the best practices manual.					

Element #22: Contractual Obligations	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
22.1 The staff provides services in alignment with the NM Standards.					
22.2 The provider gives AOC with staff credentials and background checks within 30 calendar days.					
22.3 The provider submits yearly budgets to the Court and AOC.					
22.4 The provider submits invoices and combined services performance reports to AOC on a monthly basis.					
22.5 The provider submits monthly data reports to AOC.					
22.6 The provider updates and submits the sliding fee schedule each year.					
22.7 The provider submits quarterly reports to the Court and AOC on parent fees collected and expended.					
22.8 The provider submits modifications to program rules, policies, and procedures to the Court and AOC within 30 calendar days.					
22.9 The provider submits a mid-year narrative report to the Court and AOC.					

Element #22: Contractual Obligations	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
22.10 The provider submits the Staff Credentials form for required staff continuing education and training.					

Element #23: Relationship with District Court	1. Currently Practiced? (on a scale from one to five)	2. Are Policies and Procedures in place? (on a scale from 1-3)	3. Describe primary efforts in the application of this procedure.	4. Do you see the need for improvement in this area? (Yes, have plans; Yes, no plans; No.)	5. (If yes) describe plans or needs for improvement.
23.1 The provider gives services to cases referred by the Court.					
23.2 The provider maintains a strong working relationship with the Court.					
23.3 The provider promotes the program with the referring Courts and attorneys representing parents and children.					