

# **New Mexico Court Standards for Safe Exchange & Supervised Visitation**



**New Mexico Administrative Office of the Courts**

**December 15, 2014**

# Administrative Office of the Courts

Supreme Court of New Mexico

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Dear Reader,

On behalf of the Supreme Court of the State of New Mexico and the Administrative Office of the Courts (AOC), I am pleased to present the revised *New Mexico Court Standards for Safe Exchange and Supervised Visitation*. This document serves as one of the primary resources guiding local service providers who are assisting the State Judges and judicial officers referring difficult cases of divorce, separation, and custody disputes, as well as domestic violence. The *NM Court Standards* set forth the minimum standards of operations required to be one of the judiciary's Safe Exchange and Supervised Visitation providers in New Mexico. The *NM Court Standards* spell out clearly the Courts' expectations for providers in terms of safety, service quality, and staff qualifications and training.

This revision comes four years after the minimum standards were first promulgated, and we are pleased that the initial version withstood the test of time. The additions contained in this document address additional concerns that have come to the AOC's attention in recent months, specifically regarding client and staff complaints and clarifying potential staff conflicts of interest. These changes will guide service providers in amplifying their current policies and procedures to ensure that paid and volunteer staff engage with all clients in a fair, respectful, and neutral manner, thus reinforcing the program's purpose of safety for children and victims of domestic violence.

The *NM Court Standards* form an integral part of the new Best Practices Manual being developed through an intensive program evaluation process undertaken in 2014. We anticipate that each provider's program will be strengthened over the course of the next few years through diligent application of the *NM Court Standards* and best practices, and with sustained appropriations from the New Mexico Legislature, will continue grow and serve many more of our State's most vulnerable citizens, our children.

Sincerely,

A handwritten signature in blue ink, appearing to read "Arthur W. Pepin". The signature is stylized and somewhat abstract, with several loops and flourishes.

Arthur W. Pepin  
Director

**NEW MEXICO COURT STANDARDS  
FOR  
SAFE EXCHANGE & SUPERVISED VISITATION**

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**NEW MEXICO COURT STANDARDS  
FOR  
SAFE EXCHANGE AND SUPERVISED VISITATION**

**PREAMBLE:** The Safe Exchange and Supervised Visitation program<sup>1</sup> 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.

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<sup>1</sup> NM Domestic Relations Code, Sec. 40-12-5.1 – Supervised Visitation Program

(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.

## **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.”



## **Safe Exchange & Supervised Visitation Program**

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