

2014 CA Rules of Court



Standard 5.20. Uniform standards of practice for providers of supervised visitation

(a) Scope of service

This standard defines the standards of practice, including duties and obligations, for providers of supervised visitation under Family Code section 3200. Unless specified otherwise, the standards of practice are designed to apply to all providers of supervised visitation, whether the provider is a friend, relative, paid independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The goal of these standards of practice is to assure the safety and welfare of the child, adults, and providers of supervised visitation. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided. Each court is encouraged to adopt local court rules necessary to implement these standards of practice.

(Subd (a) amended effective January 1, 2007.)

(b) Definition

Family Code section 3200 defines the term “provider” as including any individual or supervised visitation center that monitors visitation. Supervised visitation is contact between a noncustodial party and one or more children in the presence of a neutral third person. These standards of practice and this definition do not apply to supervision of visitation exchanges only, but may be useful in that context.

(Subd (b) amended effective January 1, 2007.)

(c) Qualifications of the provider

Who provides the supervision and the manner in which supervision is provided depends on different factors, including local resources, the financial situation of the parties, and the degree of risk in each case. While the court makes the final decision as to the manner in which supervision is provided and any terms or conditions, the court may consider

recommendations by the attorney for the child, the parties and their attorneys, Family Court Services staff, evaluators, therapists, and providers of supervised visitation.

(1)A “nonprofessional provider” is any person who is not paid for providing supervised visitation services. Unless otherwise ordered by the court or stipulated by the parties, the nonprofessional provider should:

(A)Be 21 years of age or older;

(B)Have no conviction for driving under the influence (DUI) within the last 5 years;

(C)Not have been on probation or parole for the last 10 years;

(D)Have no record of a conviction for child molestation, child abuse, or other crimes against a person;

(E)Have proof of automobile insurance if transporting the child;

(F)Have no civil, criminal, or juvenile restraining orders within the last 10 years;

(G)Have no current or past court order in which the provider is the person being supervised;

(H)Not be financially dependent on the person being supervised;

(I)Have no conflict of interest under (g); and

(J)Agree to adhere to and enforce the court order regarding supervised visitation.

(2)A “professional provider” is any person paid for providing supervised visitation services, or an independent contractor, employee, intern, or volunteer operating independently or through a supervised visitation center or agency. The professional provider should:

(A)Be 21 years of age or older;

(B)Have no conviction for driving under the influence (DUI) within the last 5 years;

(C)Not have been on probation or parole for the last 10 years;

(D)Have no record of a conviction for child molestation, child abuse, or other crimes against a person;

(E)Have proof of automobile insurance if transporting the child;

(F)Have no civil, criminal, or juvenile restraining orders within the last 10 years;

(G)Have no current or past court order in which the provider is the person being supervised;

(H)Be able to speak the language of the party being supervised and of the child, or the provider must provide a neutral interpreter over the age of 18 who is able to do so;

(I)Have no conflict of interest under (g); and

(J)Agree to adhere to and enforce the court order regarding supervised visitation.

(3)A “therapeutic provider” is a licensed mental health professional paid for providing supervised visitation services, including a psychiatrist, a psychologist, a clinical social worker, a marriage and family counselor, or an intern working under direct supervision of a qualified licensed mental health professional. A therapeutic provider should meet the qualifications provided in (c)(2). A judicial officer may order therapeutic supervision for cases requiring a clinical setting.

(Subd (c) amended effective January 1, 2007.)

(d) Training for providers

(1)Each court is encouraged to make available to all providers informational materials about the role of a provider, the terms and conditions of supervised visitation, and the legal responsibilities and obligations of a provider under this standard.

(2)In addition, professional and therapeutic providers should receive training that should include the following subjects:

(A)The role of a professional and therapeutic provider;

(B)Child abuse reporting laws;

(C)Record-keeping procedures;

- (D) Screening, monitoring, and termination of visitation;
- (E) Developmental needs of children;
- (F) Legal responsibilities and obligations of a provider;
- (G) Cultural sensitivity;
- (H) Conflicts of interest;
- (I) Confidentiality; and
- (J) Issues relating to substance abuse, child abuse, sexual abuse, and domestic violence.

(Subd (d) adopted effective January 1, 2007.)

(e) Safety and security procedures

All providers should make every reasonable effort to assure the safety and welfare of the child and adults during the visitation. Supervised visitation centers should establish a written protocol with the assistance of the local law enforcement agency that describes the emergency assistance and responses that can be expected from the local law enforcement agency. In addition, the professional and therapeutic provider should:

(1) Establish and state in writing minimum security procedures and inform the parties of these procedures before the commencement of supervised visitation;

(2) Conduct comprehensive intake and screening to assess the nature and degree of risk for each case. The procedures for intake should include separate interviews with the parties before the first visit. During the interview, the provider should obtain identifying information and explain the reasons for temporary suspension or termination of a visit under this standard. If the child is of sufficient age and capacity, the provider should include the child in part of the intake or orientation process. Any discussion should be presented to the child in a manner appropriate to the child's developmental stage;

(3) Obtain during the intake process:

(A) Copies of any protective order;

(B) Current court orders;

(C) Any Judicial Council form relating to supervised visitation orders;

(D) A report of any written records of allegations of domestic violence or abuse; and

(E) An account of the child's health needs if the child has a chronic health condition;

(4) Establish written procedures that must be followed in the event a child is abducted during supervised visitation; and

(5) Suspend or terminate supervised visitation if the provider determines that the risk factors present are placing in jeopardy the safety and welfare of the child or provider as enumerated in (j).

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective January 1, 1998.)

(f) Ratio of children to provider

The ratio of children to a professional provider should be contingent on:

(1) The degree of risk factors present in each case;

(2) The nature of supervision required in each case;

(3) The number and ages of the children to be supervised during a visit;

(4) The number of people visiting the child during the visit;

(5) The duration and location of the visit; and

(6) The experience of the provider.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective January 1, 1998.)

(g) Conflict of interest

All providers should maintain neutrality by refusing to discuss the merits of the case or agree with or support one party over another. Any discussion between a provider and the

parties should be for the purposes of arranging visitation and providing for the safety of the children. In order to avoid a conflict of interest, the provider should not:

(1) Be financially dependent on the person being supervised;

(2) Be an employee of the person being supervised;

(3) Be an employee of or affiliated with any superior court in the county in which the supervision is ordered unless specified in the employment contract; or

(4) Be in an intimate relationship with the person being supervised.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f) effective January 1, 1998.)

(h) Maintenance and disclosure of records

(1) Professional and therapeutic providers should keep a record for each case, including the following:

(A) A written record of each contact and visit, including the date, time, and duration of the contact or visit;

(B) Who attended the visit;

(C) A summary of activities during the visit;

(D) Actions taken by the provider, including any interruptions, terminations of a visit, and reasons for these actions;

(E) An account of critical incidents, including physical or verbal altercations and threats;

(F) Violations of protective or court visitation orders;

(G) Any failure to comply with the terms and conditions of the visitation; and

(H) Any incidence of abuse as required by law.

(2) Case recordings should be limited to facts, observations, and direct statements made by the parties, not personal conclusions, suggestions, or opinions of the provider. All

contacts by the provider in person, in writing, or by telephone with either party, the children, the court, attorneys, mental health professionals, and referring agencies should be documented in the case file. All entries should be dated and signed by the person recording the entry.

(3) If ordered by the court or requested by either party or the attorney for either party or the attorney for the child, a report about the supervised visit should be produced. These reports should include facts, observations, and direct statements and not opinions or recommendations regarding future visitation unless ordered by the court. A copy of any report should be sent to all parties, their attorneys, and the attorney for the child.

(4) Any identifying information about the parties and the child, including addresses, telephone numbers, places of employment, and schools, is confidential, should not be disclosed, and should be deleted from documents before releasing them to any court, attorney, attorney for the child, party, mediator, evaluator, mental health professional, social worker, or referring agency, except as required in reporting suspected child abuse.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g) effective January 1, 1998.)

(i) Confidentiality

Communications between parties and providers of supervised visitation are not protected by any privilege of confidentiality. The psychotherapist-patient privilege does not apply during therapeutic supervision. Professional and therapeutic providers should, whenever possible, maintain confidentiality regarding the case except when:

(1) Ordered by the court;

(2) Subpoenaed to produce records or testify in court;

(3) Requested to provide information about the case by a mediator or evaluator in conjunction with a court-ordered mediation, investigation, or evaluation;

(4) Required to provide information about the case by Child Protective Services; or

(5) Requested to provide information about the case by law enforcement.

(Subd (i) amended and relettered effective January 1, 2007; adopted as subd (h) effective January 1, 1998.)

(j) Delineation of terms and conditions

Child

Visitation

Provider

The provider bears the sole responsibility for enforcement of all the terms and conditions of any supervised visitation. Unless otherwise ordered by the court, the provider should:

- (1) Monitor conditions to assure the safety and welfare of the child;
- (2) Enforce the frequency and duration of the visits as ordered by the court;
- (3) Avoid any attempt to take sides with either party;
- (4) Ensure that all contact between the child and the noncustodial party is within the provider's hearing and sight at all times, and that discussions are audible to the provider;
- (5) Speak in a language spoken by the child and the noncustodial party;
- (6) Allow no derogatory comments about the other parent, his or her family, caretaker, child, or child's siblings;
- (7) Allow no discussion of the court case or possible future outcomes;
- (8) Allow neither the provider nor the child to be used to gather information about the other party or caretaker or to transmit documents, information, or personal possessions;
- (9) Allow no spanking, hitting, or threatening the child;
- (10) Allow no visits to occur while the visiting party appears to be under the influence of alcohol or illegal drugs;
- (11) Allow no emotional, verbal, physical, or sexual abuse; and
- (12) Ensure that the parties follow any additional rules set forth by the provider or the court.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (i) effective January 1, 1998.)

(k) Safety considerations for sexual abuse cases

In cases where there are allegations of sexual abuse, in addition to the requirements of (j), the provider should comply with the following terms and conditions, unless otherwise ordered by the court:

(1) Allow no exchanges of gifts, money, or cards;

(2) Allow no photographing, audiotaping, or videotaping of the child;

(3) Allow no physical contact with the child such as lap sitting, hair combing, stroking, hand holding, prolonged hugging, wrestling, tickling, horseplaying, changing diapers, or accompanying the child to the bathroom;

(4) Allow no whispering, passing notes, hand signals, or body signals; and

(5) Allow no supervised visitation in the location where the alleged sexual abuse occurred.

(Subd (k) amended and relettered effective January 1, 2007; adopted as subd (j) effective January 1, 1998.)

(l) Legal responsibilities and obligations of a provider

All providers of supervised visitation should:

(1) Advise the parties before commencement of supervised visitation that no confidential privilege exists;

(2) Report suspected child abuse to the appropriate agency, as provided by law, and inform the parties of the provider's obligation to make such reports;

(3) Implement the terms and conditions under (j); and

(4) Suspend or terminate visitation under (n).

(Subd (l) amended and relettered effective January 1, 2007; adopted as subd (k) effective January 1, 1998.)

(m) Additional legal responsibilities of professional and therapeutic providers

In addition to the legal responsibilities and obligations required in (l), professional and therapeutic providers should:

(1) Prepare a written contract to be signed by the parties before commencement of the supervised visitation. The contract should inform each party of the terms and conditions of supervised visitation;

(2) Review custody and visitation orders relevant to the supervised visitation;

(3) Implement an intake and screening procedure under (e)(2); and

(4) Comply with additional requirements under (o).

(Subd (m) amended and relettered effective January 1, 2007; adopted as subd (l) effective January 1, 1998.)

(n) Temporary suspension or termination of supervised visitation

(1) All providers should make every reasonable effort to provide a safe visit for the child and the noncustodial party.

(2) However, if a provider determines that the rules of the visit have been violated, the child has become acutely distressed, or the safety of the child or the provider is at risk, the visit may be temporarily interrupted, rescheduled at a later date, or terminated.

(3) All interruptions or terminations of visits should be recorded in the case file.

(4) All providers should advise both parties of the reasons for interruption of a visit or termination.

(Subd (n) amended and relettered effective January 1, 2007; adopted as subd (m) effective January 1, 1998.)

(o) Additional requirements for professional and therapeutic providers

Professional and therapeutic providers should state the reasons for temporary suspension or termination of supervised visitation in writing and provide the written statement to both parties, their attorneys, the attorney for the child, and the court.

(Subd (o) amended and relettered effective January 1, 2007; adopted as subd (n) effective January 1, 1998.)

Standard 5.20 amended and renumbered effective January 1, 2007; adopted as sec. 26.2 effective January 1, 1998.