

CHISAGO COUNTY BEST PRACTICES FOR ACCESS TO CHILDREN BY SIGNIFICANT PERSONS

Unless special circumstances exist, children generally fare best when they have the emotional support and ongoing involvement of those who have played a significant role in their lives. Whether access is sought in the dissolution of marriage, child custody, domestic abuse or child protection setting there are certain practices that are universal and should apply in determining who should have access, what access should be established and under what circumstances and or conditions access should be permitted to children. These best practices are intended to provide parties, attorney, courts and social service agencies guidance on access issues. However, they are not intended restrict judicial discretion or to override and/or supersede the requirements of any Minnesota Statute or Rule that may apply to a given situation or proceeding.

SIGNIFICANT PERSONS

Access should be established between a child and those who are a **significant person** in the child's life. These significant persons include:

- **Parent.** "Parent" means the birth or adoptive parent of a minor.
- **Custodian.** "Custodian" means any person who is under a legal obligation to provide care and support for a minor or who is in fact providing care and support for a minor.
- **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact.

ACCESS

Access includes any contact between the child and the significant persons in their life. Such access may simply be letters, emails and/or phone calls. It may also include supervised visitation or unfettered, unsupervised and unlimited parenting time. The degree and nature of access to the child is dependent upon a number of issues including:

- The child's relationship with the significant person
- The child's physical and emotional health
- The significant person's physical and emotional health

Access should permit the child and the significant person to maintain a relationship that will be in the best interests of the child.

The objectives of providing access to a child by significant persons include:

- To establish or strengthen the relationship between the child and significant person
- To help the significant person become involved in the child's life
- To provide instruction to the significant person in child care skills
- To help significant person gain confidence in meeting the child's needs
- To identify problem areas that cause stress
- To test the significant person's ambivalence and/or commitment to the child.

When establishing access to a child by a significant person, primary concern should always be the best interest of the child, taking into consideration the following factors:

- The physical safety of the child
- The sexual safety of the child
- The need and availability of supervision
- The parenting skills of the significant person
- The attuned care giving of the significant person
- The need to establish a positive experience that demonstrates growth and relationship strengths
- The follow through on the part of the significant person

Access should always be in the least restrictive setting and provide the most normal environment to ensure the safety of the child. When access includes direct contact such as visitation and/or parenting time, preferences as to setting should be in the following order:

- The home of the parent
- The home of a relative
- The home of the foster parent
- A community location such as a park
- A child safety center

In the absence of evidence to the contrary, a parent of the child should have access to their child during at least 25 percent of the available parenting time for the child.

CONDITIONS OF ACCESS

Generally access by a parent or custodian should commence within 72 hours of the child's separation from his or her parent or custodian and should be at a frequency consistent with the child's level of development, taking into consideration the following:

- Infants and toddlers (birth - 2 1/2 years) should have contact with a parent or custodian on a schedule that is consistent, predictable and routine in nature. The parent or custodian should have short (one to three hours) but frequent (two to three times per week) access during the day or early evening.
- Preschoolers (2 ½ - 5 years) should have contact with a parent or custodian on a schedule that is consistent, predictable and routine in nature. The parent or custodian should have longer period of access including overnights.
- Elementary School (5 - 12 years) should have longer periods of contact with fewer transitions between caregivers.
- Adolescents (12 - 18 years) should have contact with parent or custodian that maintains the child's accessibility to school, peers, extracurricular and community activities.

If access by the parent or custodian is not in the best interest of the child, access by other significant persons should be established at the earliest date possible.

The conditions and circumstances of access by a significant person should provide:

- Reassurance to the child
- Good, consistent care
- Positive and consistent contact with the significant person
- Visits with siblings, if they are apart
- Mental assessments when needed
- Parenting assessment when needed
- There will be no disparaging/negative comments made about other significant persons

WITHHOLDING ACCESS

Withholding of access shall never be used as a threat or form of discipline for the child or to control or punish the significant person for failure to work with the court, human services or other community providers. However, access may be suspended or terminated when one of the following conditions exists:

- Where there is repeated violations of the terms of the access that is adversely affecting the child
- Where the child is severely distressed in response to the access and these symptoms are not ameliorated despite appropriate professional intervention.
- Where there is clear indication that the significant person has expressly threatened to harm or flee with the child or attempts to communicate threats of physical harm or death to the child's parent, family member or household member.
- When the significant person is incarcerated or under threat of eminent arrest due to an outstanding warrant.
- If the significant person has a history of significant violence or abusive behavior.
- Continued missed appointments for visitation. Continued missed appointments exists when there have been of 2 or 3 missed appointments.
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REINSTATING ACCESS

If access is suspended or terminated it should be made clear what conditions would have to be met by the significant person before resumption of access will be reinstated. Access will continue to be withheld until the issue is addressed or until the next Court appearance.

RESTRICTED ACCESS

When supervised access is deemed necessary the conditions of the supervised access should be detailed and clearly communicated to all parties. This should include the times for the visits, the place of exchange of the child, whether telephone contact with the child is permitted and under what conditions, who will supervise the visit of how the supervisor is to be chosen and who shall bear the cost of any supervision. The supervisor should be a responsible adult who can be expected to provide appropriate supervision. This person should be someone with whom it is expected that the child will be comfortable. The place of the visitation should be one that is expected to feel comfortable, reassuring and safe to the child.

Restricted access should be considered and implemented when access by a significant person is likely to endanger the child's physical or emotional health or impair the child's emotional development, as evidenced by any of the following

- The significant person may be or has been physically, sexually or emotionally abusive to the child
- When the significant person is known to behave in inappropriate and unpredictable ways
- When the significant person resides with a perpetrator of physical or sexual abuse
- When the significant person is known to make unrealistic or inappropriate promises
- When several parties agree that the child is traumatized
- When the child's sense of well being is significantly compromised
- When the significant person remains unable to make a meaningful connection, in spite of consistent services and education

In such cases access should be restricted as to time, place, duration, or supervision and may be denied entirely, as the circumstances warrant. In such cases the following restrictions should be considered:

- Provide that exchanges occur in a protective setting that is neutral, safe and preferably with a third person present.
- Prohibit overnight visitation
- Require that the significant person abstain from possession or consumption of alcohol or controlled substances during the access and for 24 hours preceding the access
- Provide that visitation be supervised by a person or agency.

When supervised access is deemed necessary the following conditions should be implemented:

- Supervision only by adults who have been approved by Social Services following background checks or approved by the Court.
- Access should always be in direct eye contact/general building area of the supervising adult as directed by Social Services
- There is to be no intimidation, staring or glaring directed at the supervising adult
- There is to be no verbal or physical abuse directed towards the supervising adult or child
- There is to be no unauthorized persons present
- The significant person will be respectful of any house rules and scheduling requirements of the supervising adult or agency
- The significant person will be expected to plan activities for the child during the visit
- If an individual, family or household member agrees to supervise the access they will enter into and execute an Agreement and Oath of Visitation Supervisor in a form consistent with the attached Appendix A

LIFTING CONDITIONS

The lifting of conditions of restricted access should be made contingent upon cessation of the conditions that warranted supervised contact. Transitioning from restricted to unrestricted access should include:

- A gradual increased in frequency and length of access
- A demonstration that the significant person is on a path to self sufficiency and that the conditions that warranted restricted access will not recur
- The child being given time to grieve the loss of foster parents
- The development of safety plan to ensure the on going safety of the child

Dear Parents,

Unless special circumstances exist, children generally fare best when they have the emotional support and ongoing involvement of those who have played a significant role in their lives. These significant persons include:

- **Parent.** "Parent" means the birth or adoptive parent of a minor.
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- **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact.

In order for your visitation to begin you will need to contact your social worker to arrange for visitations. It will need to be determined what type of access there will be with the children. If it is supervised visitation, it will need to be determined who will be doing the supervising. There are several options for supervisors and those can be discussed with your social worker. If a relative is a supervisor option they will need to fill out a background check and it will need to be completed before they may start supervising visits. Your social worker may determine that a professional agency is an appropriate supervising option so that parenting skills may also be offered at the time of the visit.

Please refer all of your questions to your current social worker. Parents please forward all names and addresses of any relatives that may be available to supervise visitations or be available as a placement option for your children to your current social worker.

Parent signature

Date

Witness

Date

Original placed in file
Copy to be provided to parent

APPENDIX A

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CHISAGO

TENTH JUDICIAL DISTRICT

File No. _____

,
Petitioner,

**AGREEMENT AND OATH OF
VISITATION SUPERVISOR**

vs.

Respondent.

Agreement to Conditions of Supervised Visitation

I agree to provide supervision for the court-authorized contact between the child(ren); (List names and ages):

Hereinafter, "Child," and child(ren)'s parent: _____

hereafter referred to as "Visiting Parent." I have read and agree to abide by all of the terms of the Court Order(s) dated _____, which sets forth the terms of the visitation and/or no contact orders related to the parties. I understand that if I violate or knowingly allow the Visiting Parent to violate any terms of the Court Order, I may be held in contempt of court and may be sanctioned by a fine and/or possible imposition of jail term. By accepting the responsibility of acting Visitation Supervisor, I am also submitting myself to the jurisdiction of the Court to enforce its Orders, which could include the requirement that I pay attorney fees and costs as ordered by the Court.

Rules and Conditions of the Visitation.

If the Visiting Parent violates any of the following conditions, I agree to stop the visitation, return the child to the other parent (“Custodian”), and to call 911 for assistance, if appropriate:

1. I will remain within eyesight of the Child at all times; I will take the Child to the bathroom as need.
2. I will remain within hearing distance, such that I can hear all conversations between the Child and Visiting Parent. I will not allow any whispering, telling of secrets, speaking in any language in which I am not fluent, foul language, profanity, threats, or any comments which may cause discomfort of the Child or comments regarding any legal matters, either criminal or civil in nature.
3. I understand that my role is to supervise the visitation between the Child and the Visiting Parent and that my role is to protect the Child. I agree to place the Child’s safety and emotional security first.
4. I will not allow the Visiting Parent to ask questions about the Custodian or to make any attempt to find out information about the Custodian. Particularly, if the Child or Custodian’s residence is confidential, I will not allow the Visiting Parent to ask any questions that may lead to disclosure of that information or similar information, such as where the Child is attending school or church, or which parks the Child likes to visit.
5. I will not allow the Visiting Parent to make negative or inappropriate comments about the Custodian at any time in the course of visitation, whether in front of the Child or not.
6. I will not allow the Visiting Parent to visit if that person has been drinking or appears to be under the influence of alcohol or drugs; or if any person possesses or displays a weapon of any kind.
7. I understand that I may request to be relieved of the responsibility of acting as Visitation Supervisor at any time by immediately providing written notice to the court, the parties’ attorneys, and non-represented parties that I desire to stop serving as Visitation Supervisor.
8. _____ (check if ordered) No one other than the Visiting Parent may attend the visitation unless other provided by advance written authorization of the Custodian or the Court.

9. _____ (check if ordered) I will not allow the Visiting Parent to give the Child any gifts except upon prior written authorization given by the Custodian or the Court.
10. _____ (check if ordered) I shall make sure that the Visiting Parent is not present at the visitation location when the Child is brought for visitation, so that there will be no contact between the parents.
11. _____ (check if ordered) I will require the Visiting Parent to leave the visitation location at the end of the visitation period at least 15 minutes prior to the child being picked up. If the Visiting Parent violates this, I will make every effort to notify the person who is picking up the Child before the scheduled pickup time, and I will report the violation to the court and to the parties' attorney within 24 hours of the violation.
12. _____ (check if ordered) I understand that the court order requires me to prepare a brief written report as to how the visitation went, and any violations or matters of note.

By signing below, I certify that I understand and agree to abide by all of the foregoing provisions.

Signature: _____

Printed Name: _____

Date: _____

Telephone Number: _____

Contact Address:

MUST BE NOTARIZED

Subscribed and sworn before me

Date: _____

Witness: _____

(Notary/Deputy/Sheriff's Deputy)