

TITLE 8 SOCIAL SERVICES
CHAPTER 8 CHILDREN, YOUTH AND FAMILIES GENERAL PROVISIONS
PART 7 COURT ORDERED DOMESTIC VIOLENCE OFFENDER
TREATMENT OR
INTERVENTION PROGRAMS

8.8.7.1 ISSUING AGENCY: New Mexico Children, Youth and Families Department.
[8.8.7.1 NMAC - Rp, 8.8.7.1 NMAC, 05/29/09]

8.8.7.2 SCOPE: General public, providers of domestic violence offender treatment or intervention programs, persons convicted of domestic violence, courts, and attorneys.
[8.8.7.2 NMAC - Rp, 8.8.7.2 NMAC, 05/29/09]

8.8.7.3 STATUTORY AUTHORITY: NMSA 1978 Sections 30-3-15 and 30-3-16 (2007).
[8.8.7.3 NMAC - Rp, 8.8.7.3 NMAC, 05/29/09]

8.8.7.4 DURATION: Permanent.
[8.8.7.4 NMAC - Rp, 8.8.7.4 NMAC, 05/29/09]

8.8.7.5 EFFECTIVE DATE: May 29, 2009, unless a later date is cited at the end of a section.
[8.8.7.5 NMAC - Rp, 8.8.7.5 NMAC, 05/29/09]

8.8.7.6 OBJECTIVE: The objective of Chapter 8, Part 7 is to establish the manner in which the department will approve programs to provide court-ordered domestic violence offender treatment or intervention, and will identify approved programs to court personnel.
[8.8.7.6 NMAC - Rp, 8.8.7.6 NMAC, 05/29/09]

8.8.7.7 DEFINITIONS:

- A. "Approved DVOTI program list" means the list compiled by the department consisting of approved DVOTI programs for use by New Mexico courts in ordering domestic violence offenders to complete domestic violence offender treatment or intervention pursuant to NMSA 1978 Sections 30-3-15 and 30-3-16 (2008).
- B. "Approved DVOTI program" means a domestic violence offender treatment or intervention program that has been approved by the department to provide domestic violence offender treatment or intervention pursuant to the NMSA 1978 Sections 30-3-15 and 30-3-16 (2008).
- C. "Court-ordered domestic violence offender treatment or intervention" means domestic violence offender treatment or intervention ordered by a court pursuant to NMSA 1978 Sections 30-3-15 or 30-3-16 (2007).
- D. "Department" means the children, youth and families department.
- E. "Domestic violence offender" means a person convicted under NMSA 1978 Section 30-3-15 or 30-3-16 (2008) regardless of whether or not the person received a suspended sentence, a deferred sentence, or a conditional discharge.

- F. “Domestic violence offender treatment or intervention (DVOTI)” means services, approved by the department, that address and seek to ameliorate domestic violence perpetration. Such services may, but need not, be provided by licensed therapists. [8.8.7.7 NMAC - Rp, 8.8.7.7 NMAC, 05/29/09]

8.8.7.8 APPROVAL OF DVOTI PROGRAMS TO PROVIDE DVOTI SERVICES

- A. Approval is based upon the provider's submission of a formal application to the department, demonstrating the operation of a functioning program that uses evidence-based techniques and effectively serve the target population.
- B. In granting approval for the list, the department may rely in part upon its knowledge of services the provider has supplied whether pursuant to contract with the department, or otherwise.
- C. The department shall distribute the approved DVOTI program list to New Mexico tribunals. The department shall notify courts of any additions or deletions to the approved DVOTI program list. [8.8.7.8 NMAC - Rp, 8.8.7.8 NMAC, 05/29/09]

8.8.7.9 LIST OF APPROVED DVOTI PROGRAMS TO BE COMPILED ANNUALLY

- A. The department shall compile a list of approved DVOTI programs to be distributed to sentencing tribunals annually on or about January 1.
- B. DVOTI providers that wish to be included in the approved DVOTI program list must comply with the application and renewal procedures set forth in this regulation. [8.8.7.9 NMAC - Rp, 8.8.7.9 NMAC, 05/29/09]

8.8.7.10 CRITERIA FOR APPROVED DVOTI PROGRAMS:

The department shall approve DVOTI programs that include the following criteria and features:

- A. an initial assessment to determine if the domestic violence offender will benefit from participation in the program and a policy in place for notification to the court if a determination is made that an offender will not benefit from the program; the program will provide recommendations for alternative offender treatment to the court pursuant to section 15;
- B. a written contract, which must be signed by the domestic violence offender that sets forth:
 - (1) attendance and participation requirements;
 - (2) consequences for failure to attend or participate in the program;
 - (3) consequences of reoffending while enrolled in the program;
 - (4) a requirement that a domestic violence offender not be under the influence of alcohol or drugs during a session;
- C. strategies to hold domestic violence offenders accountable for their violent behavior;
- D. a requirement for group discussions that the participants be limited to members of the same gender;
- E. a requirement that offenders under the age of 18 may be enrolled in intervention groups so long as they are separate from adult groups;
- F. goals that focus on the cessation of abuse or violence, whether physical or non-physical, and that is mindful of the safety of the victim, current partner and children;

- G. ongoing process of assessing for danger during the time the offender is enrolled in the program;
- H. a written policy requiring a duty to warn potential victims of threats of imminent harm and other mandatory reporting requirements designed to protect victim, potential victims and children;
- I. an education component for treatment that:
 - (1) defines physical, emotional, sexual, economic and verbal abuse and techniques for stopping those forms of abuse; and
 - (2) examines gender roles, socialization, the nature of violence, the dynamics of power and control and the effects of domestic violence on children;
 - (3) facilitates the offender acknowledging responsibility for abusive actions and consequences of actions;
 - (a) identifies and offers alternatives to the offender's belief system that facilitate abusive behaviors;
 - (b) increases the offender's empathic skills to enhance ability to empathize with the survivor/victim;
 - (c) assures that the offender history of trauma never takes precedence over his/her responsibility to be accountable for violent behavior and potential offense, or be used as an excuse, rationalization, or distraction from being held accountable;
 - (d) educates the offender on the potential for re-offending and signs of abuse escalation;
 - (e) assists the offender in developing a written re-offense prevention plan;
 - (f) increases the offender's understanding of the impact violence on adult intimate victims and children;
 - (g) educates the offender on the legal ramifications of his/her violence; and
 - (h) teaches the offender self-management techniques to avoid abusive behavior.
- J. a requirement that the program provide monthly written reports to the presiding judge or the domestic violence offender's probation or parole officer regarding:
 - (1) proof of the domestic violence offender's enrollment in the program;
 - (2) progress reports that address the domestic violence offender's attendance, fee payments and compliance with other program requirements; and
 - (3) evaluations of progress made by the domestic violence offender and recommendations as to whether or not to require the offender's further participation in the program;
- K. a requirement that all approved domestic violence offender treatment or intervention programs must consist of at least 52 weeks of group sessions lasting no less than ninety minutes each; individual sessions to address crisis management or case management issues will not replace group sessions; and
- L. a requirement that all approved domestic violence offender treatment or intervention programs must maintain a staff to client ratio of 1:12 with the group size limited to no more than 20; and
- M. Marriage counseling, family therapy and counseling for couples shall not be a component of an approved domestic violence offender treatment or intervention program.
- N. a requirement that DVOTI staff working with offenders receive the following training:

- (1) a requirement that prior to facilitating, all group facilitators demonstrate that they have received at least 40 hours of training which includes the dynamics of domestic violence, tactics of abuse, the effects of domestic violence on victims and their children, the relationship between domestic violence and substance abuse, best practices in performing ongoing danger assessments, state and federal laws against domestic violence, cultural diversity, group facilitation skills, and best practices for working with offenders;
 - (2) a requirement that prior to facilitating, facilitators observe a group by a seasoned facilitator with five or more years of experience.
 - (3) a requirement that all group facilitators receive a minimum of 8 hours of CYFD approved annual retraining on advanced issues related to offender treatment;
 - (4) a requirement that the DVOTI maintain documentation that personnel have received the required training.
- O. the DVOTI shall make a good faith effort to establish a cooperative working relationship with a local domestic violence victim services provider and that the DVOTI participate to the extent possible in the local coordinated community response team working to reduce domestic violence.
- P. a requirement that the group be strictly limited to domestic violence offenders and cannot include other classes of offenders.
- [8.8.7.10 NMAC - Rp, 8.8.7.10 NMAC, 05/29/09]

8.8.7.11 APPLICATION PROCEDURES FOR INCLUSION IN THE APPROVED DVOTI PROGRAM LIST

- A. Application packets for inclusion in the annual approved DVOTI program list will be available from the department. Providers must submit a completed application packet for inclusion in the approved DVOTI program list.
- B. The application process for inclusion in the annual approved DVOTI list shall be separate from, and shall not be influenced by, any requests for proposals or contractual awards issued by the department.
- [8.8.7.11 NMAC - Rp, 8.8.7.11 NMAC, 05/29/09]

8.8.7.12 EVALUATION OF APPLICATIONS FOR INCLUSION IN THE APPROVED DVOTI PROGRAM LIST

- A. Applications shall be evaluated for approval by the department.
- B. The evaluation process may include a component based upon prior years' performance, and whether or not concerns from prior years have been satisfactorily addressed and corrected.
- C. The evaluation process may include a component based upon feedback from local courts and DVOTI program participants.
- D. Geographic coverage areas. The department shall seek to identify providers who can provide approved DVOTI treatment at locations within a reasonable commute for all geographic areas within the state. However all approved DVOTI programs must satisfy the minimum criteria.
- E. The evaluation shall not include any preference based on the provider's current or prior contractual agreements with the department, nor absence thereof.
- [8.8.7.12 NMAC - Rp, 8.8.7.12 NMAC, 05/29/09]

8.8.7.13 NOTIFICATION TO PROGRAMS OF EVALUATION RESULTS

- A. DVOTI program applicants shall be notified by the department whether they have been selected for inclusion on the annual approved DVOTI program list. If the provider is not selected, the notification shall state the reasons for non-selection.
- B. A DVOTI program whose application was not selected for inclusion on the annual approved DVOTI program list may re-apply for inclusion after correcting the deficiencies identified by the department. The program must establish that the reasons for non-selection have been satisfactorily corrected.
- C. The department will evaluate re-submitted applications as promptly as possible; however, staffing priority will be given to the evaluation and maintenance of programs already identified on the current approved DVOTI provider list.
[8.8.7.13 NMAC - Rp, 8.8.7.13 NMAC, 05/29/09]

8.8.7.14 DISTRIBUTION OF APPROVED DVOTI PROVIDER LIST

- A. The department shall distribute the approved DVOTI program list annually on or about January 1, to sentencing courts, public defenders, district attorneys, DVOTI providers, and other interested parties.
- B. The department shall promptly update the approved DVOTI program list to identify newly-approved providers and providers who have been removed from the list.
- C. The approved DVOTI provider list, as updated, shall be available on the department's website: www.cyfd.org.
[8.8.7.14 NMAC - Rp, 8.8.7.14 NMAC, 05/29/09]

8.8.7.15 SERVICES PURSUANT TO COURT ORDER

- A. Approved DVOTI programs are to provide domestic violence offender treatment or intervention in accordance with the rule. Court orders should specify that the domestic violence offender complete the approved DVOTI program.
- B. If the approved DVOTI program assesses that alternative services are appropriate for an offender, the program shall notify the court so that the court order may be amended. The recommended alternative services shall be deemed to constitute the approved DVOTI program for that offender.
- C. In the event a program is de-listed, domestic violence offenders should be re-directed to complete treatment or intervention with another approved DVOTI program.
[8.8.7.15 NMAC - Rp, 8.8.7.15 NMAC, 05/29/09]

8.8.7.16 MONITORING OF APPROVED DVOTI PROGRAMS

- A. The department shall conduct ongoing monitoring of approved DVOTI programs.
- B. Approved DVOTI programs must allow the department to conduct site visits during regular business hours, to determine compliance with approved criteria.
- C. The department shall establish a schedule by which it will conduct site visits. In no event shall site visits be conducted less than one time during any two-year period.
- D. Approved providers will be required to report and verify recommendations for alternative offender treatment or intervention.

- E. Approved DVOTI providers must maintain data and records as required by the department.
- F. Judges, district attorneys, public defenders, other court personnel, domestic violence offenders, their attorneys and families, victim advocates and domestic violence service providers will be encouraged to provide feedback regarding the efficacy of approved DVOTI programs, to the programs and to the department.
- G. The department will investigate complaints as promptly as possible.
- H. The department may require approved DVOTI providers to take corrective action in response to the department's ongoing monitoring and evaluation of feedback and complaints. Failure to implement corrective action may result in de-listing of the DVOTI program.

[8.8.7.16 NMAC - Rp, 8.8.7.16 NMAC, 05/29/09]

8.8.7.17 DE-LISTING OF PROGRAMS; APPEAL RIGHTS

- A. Programs may be removed from the approved DVOTI provider list upon a determination by the department that:
 - (1) the program is not providing the services substantially as described in its approved application for inclusion in the annual approved DVOTI provider list;
 - (2) the program has requested to be removed from the list;
 - (3) failure to update information; or
 - (4) failure to implement corrective action required by the department.
- B. A program that is involuntarily removed from the annually-approved DVOTI provider list, and which wishes to appeal its removal, must request an administrative hearing within 10 business days of receipt of the notice of removal. An appeal hearing shall be conducted by an administrative hearing officer appointed by the department secretary in the manner prescribed by, 8.8.4 NMAC.

[8.8.7.17 NMAC - Rp, 8.8.7.17 NMAC, 05/29/09]

8.8.7.18 ANNUAL RENEWAL:

Renewal shall not be automatic from year to year. Each approved DVOTI program must submit an annual application packet and data report, which may be obtained from the department.

[8.8.7.18 NMAC - Rp, 8.8.7.18 NMAC, 05/29/09]

HISTORY OF 8.8.7 NMAC:

History of Repealed Material:

8.8.7 NMAC, Court Ordered Domestic Violence Offender Treatment Programs, filed 7/18/2007 - Repealed effective 05/29/09.