

# **Arizona Association of Family and Conciliation Courts**

## **2012 Summit Project**



# **GUIDELINES FOR NON-CLINICAL MONITORED PARENTING TIME**

# **2011-2012 AzAFCC Summit Committee**

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## **ACKNOWLEDGEMENTS**

The 2011-2012 Summit Committee Chair wishes to thank all of the committee members for their dedication and commitment to this project. The Summit Committee volunteered their time and energy and worked diligently during 2011 to produce the proposed Guidelines. Each committee member brought extraordinary talent and a willingness to listen, be challenged, and to work together to create what we hope will be a practical and useful tool for Arizona families.

Special thanks go to the law firm of Mariscal, Weeks, McIntyre & Friedlander, P.A., and Jason Castle, for their generosity in providing their beautiful conference room facilities for our meetings. Special thanks also to the Administrative Office of the Courts, and Theresa Barrett of the Court Services Division for assisting with teleconferencing and logistical support.

On behalf of the AzAFCC Board, we are honored to have the opportunity to work with such thoughtful and committed professionals who are willing to give their time for the benefit of Arizona families.

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## **I. Executive Summary**

The Arizona Chapter of the Association of Family and Conciliation Courts (AzAFCC) is an interdisciplinary organization comprised of mental health professionals, judicial officers, attorneys, academics, mediators and others engaged in the family law process. In meeting one of the Mission Statement objectives for the organization, the 2009-2010 AzAFCC Board of Directors endorsed proceeding with an annual "summit project" designed to address a core issue that arises in the family law arena. The goal is to create a product that can then be utilized as a resource for those who confront the identified issues. The inaugural summit committee was tasked with the responsibility to address a specific issue and to develop an infrastructure for use by future summit committees. The intended users of these resources are the professionals engaged in the family law arena.

The focus of this document is to provide suggestions for non-clinical parenting time monitors. When issues arise that require parents to visit with their children in a supervised setting, family members or other community members are sometimes asked to provide supervision because of financial constraints or to increase the comfort of the children. This document is designed to provide guidelines for those situations.

There are many public and community organizations that provide compensated or clinical visitation supervision. This document does not make recommendations regarding the policies or procedures for professional visitation supervision. Nor does this document address therapeutic supervision.

This material is for use as a resource. It is not to be viewed as a comprehensive or authoritative work, as carrying any legal weight, or endorsed by any organization, entity, or institution, including the AFCC parent organization. The fact that the Summit Committee included policy makers and judicial officers does not suggest that it reflects the views of any particular committee member or that the Summit Committee is acting on behalf of any organization, entity, or institution.

The guidelines, recommendations, and suggestions may communicate expectations that exceed established law or other regulatory bodies. Where conflict exists, law, rules of the court, regulatory requirements, or agency requirements supersede these Guidelines.

The Summit Committee recognizes that there are many other issues deserving of attention and improvement in this area. At the end of the document, the Summit Committee suggests areas for further development in future summits or other endeavors.

## **II. Referral Issue**

The Summit Committee identified a need for standardized expectations and communication for non-clinical monitored parenting time. Although there are some circumstances that require clinical supervision of parenting time to protect the safety of children and to provide forensic information to the professionals who work with families, there are many circumstances where a family member or community member is able and willing to monitor parenting time on a volunteer basis. The Summit Committee recognized that these volunteers are often not involved in the court proceedings and may be unaware of the expectations of the Court in performing their role. The Summit Committee worked to provide a framework for non-clinical monitored parenting time to explain the expectations to both the custodial and visiting parent as well as the non-clinical monitor and, in appropriate cases, the child.

The Committee recognized the need to assist professionals in the following ways:



Providing suggested guidelines as to when monitoring is appropriate and whether clinical supervision or non-clinical monitoring should be used.

Providing standard rules for monitored parenting time that can be customized for particular needs.

Establishing a system of accountability for each parent and the non-clinical monitor to make sure they know and agree to follow all court orders.

Providing a format for recording information about each visit and reporting problems to the Court.

### **III. Guidelines for Non-Clinical Parenting Time Monitors**

#### **A. Introduction**

The Summit Committee gathered many thoughtful writings and treatises regarding supervised visitation in preparing for the summit project. The goal of this summit project was limited to providing specific suggestions and proposed orders for use with families where supervised visitation is indicated and where it is determined that there are family members or community members who are willing to serve as monitors. Non-clinical monitors can be a very valuable resource for families. Not only are they willing to serve without cost, they can sometimes provide a more family-friendly atmosphere than would be available through professional supervision.



The guidelines offer suggestions for judges and practitioners to consider the regarding the appropriate level of supervision, directions to both parents and monitors regarding their responsibilities, suggested language for orders and acknowledgments and a method for reporting concerns to the Court.

The goal of any supervised visitation arrangement is to provide for the safety and well-being of the child and to promote the parent-child relationship.

#### **B. When to Order Clinical vs. Non-Clinical Supervised Parenting Time**

These materials address non-professional supervised parenting. Any references to supervised parenting time specifically refer to non-clinical supervision unless clearly stated to the contrary. The use of the word "monitor" as opposed to "supervisor" was intended to convey the idea that the monitor's role is not to direct or "run" the visit, but rather to be a consistent but passive presence to provide a safe space for the parent and child to enjoy parenting time.

As an overall percentage, relatively few parents in family court cases require supervised parenting. Most parents are able to parent their children without posing a potential harm to the child. Often, if a parent requires supervision, the supervision

must be by a licensed mental health professional. But in some cases, a family member or friend may be able to provide the supervision necessary.

Deciding that supervision is needed is the first hurdle. Once that decision is made, the next issue is whether clinical supervision is necessary. Non-clinical monitoring generally is appropriate in several circumstances. A few examples include:  
When the person monitoring the parenting time serves as an observer to ensure that nothing happens during the parenting time that would result in harm to the child.

When the person monitoring the parenting time serves as a guide to help the parent learn how to care for the child so that the child is not inadvertently harmed by an inexperienced parent.

When the person monitoring the parenting time serves as a calming presence for a child who may have little or no relationship with the parent to ensure that the child does not experience emotional harm during the parenting time.

Regardless of the basis for ordering supervision, supervised parenting impacts a parent's ability to parent a child. Courts have long held that parents have a fundamental right "to raise their children as they see fit." *Graville v. Dodge*, 195 Ariz. 119, 123, ¶ 19, 985 P.2d 604, 608 (App. 1999). A parent's right, however, is not without limits. *Id.* Arizona has enacted statutes that impact a parent's ability to parent a child when necessary to protect the child's best interests. *Id.* (referring to A.R.S. § 25-409, allowing Arizona Courts to order grandparent visitation over a parent's objection).



In that regard, several Arizona Revised Statutes (A.R.S.) address when supervised parenting may be appropriate. Those statutes include the following (with emphasis added):

25-403.02. Parenting plans

B. If the parents are unable to agree on any element to be included in a parenting plan, the court shall determine that element. **The court may determine other factors that are necessary to promote and protect the emotional and physical health of the child.**

25-403.03. Domestic violence and child abuse

F. If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. **If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm.** The court may:



\* \* \*

2. Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time.

25-403.04. Drug offenses

A. If the court determines that a parent has been convicted of any drug offense under title 13, chapter 34 or any violation of section 28-1381, 28-1382 or 28-1383 within twelve months before the petition or the request for custody is filed, there is a rebuttable presumption that sole or joint custody by that parent is not in the child's best interests. In making this determination the court shall state its:

\* \* \*

**2. Findings that the custody or parenting time arrangement ordered by the court appropriately protects the child.**

25-410. Judicial supervision<sup>1</sup>

A. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including the child's education, health, care and religious training, unless, on motion by the noncustodial parent, **the court, after a hearing, finds that in the absence of a specific limitation of the custodian's authority, the child's physical health would be endangered or the child's emotional development would be significantly impaired.**

B. If either parent requests the order, or if all contestants agree to the order, or if the court finds that in the absence of the order the child's physical health would be endangered or the child's emotional development would be significantly impaired, and if the court finds that the best interests of the child would be served, the court shall order a local social service agency to exercise continuing supervision over the case to assure that the custodial or parenting time terms of

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<sup>1</sup> If the Court proceeds to order supervision under A.R.S. § 25-410(B), the Court must appoint a "local social service agency" to supervise. *Hart v. Hart*, 220 Ariz. 183, 188, n. 6, 204 P.3d 441, 446, n.6 (App. 2009). Therefore, if the Court is proceeding under A.R.S. § 25-410(B), the Court cannot allow a non-professional to supervise.

the decree are carried out. At the discretion of the court, reasonable fees for the supervision may be charged to one or both parents, provided that the fees have been approved by the supreme court.

25-411. Modification of custody decree; affidavit; contents; military families<sup>2</sup>

J. The court may modify an order granting or denying parenting time rights whenever modification would serve the best interest of the child, but **the court shall not restrict a parent's parenting time rights unless it finds that the parenting time would endanger seriously the child's physical, mental, moral or emotional health.**



The provisions of A.R.S. § 25-411(J) apply only when the Court modifies existing court orders. The other sections apply throughout an action, whether or not there are existing orders. However, some unpublished appellate cases suggest that whenever a Court modifies an existing order, the parties and Court must use the A.R.S. § 25-411(J) standard even if the Court also is considering action under one of the other sections.

The added emphasis in the above statutes is done to make a point. The common theme among all of the provisions is that the Court may order supervised parenting time only when necessary to protect the child, whether from physical, mental, moral, or emotional harm. The Court cannot use supervised parenting time orders, even by a family member or friend, simply because the Court concludes that the parent could do a better job of parenting. In that regard, when a party seeks or a mental health provider recommends supervised parenting, the person must be able to articulate the specific harm that the child may face in the absence of supervision.

Supervision may be necessary when there has been serious abuse or neglect, including domestic violence or sexual abuse. Clinical supervision may serve both a protective and a forensic purpose. The clinical supervisor is expected to observe the visit closely and document any concerns regarding the parent's level of involvement and interaction with the child. Non-clinical monitors are not expected to take an active role in directing the visit or reporting specific behavior during the visit unless there is a violation of the rules.

**C. Order and Acknowledgement for Monitored Parenting Time**

Addendum A is a sample order that could be used in any family Court case where non-clinical monitored parenting time is being requested or ordered by the Court. Each

<sup>2</sup> A.R.S. § 25-411(D) was the subject of the opinion in *Hart v. Hart*, 220 Ariz. 183, 204 P.3d 441 (App. 2009). When the *Hart* opinion was published, the current 25-411(J) was 25-411(D).

parent and the non-clinical monitor are expected to sign the proposed order acknowledging that they understand the rules of supervised visitation and agreeing to follow the orders of the Court. The Court may adopt the requested order or enter its own order including specific directives that may be called for in a particular situation. The Summit Committee noted that the document could be initiated by any party but that there should be a plan expressed as to who is responsible for providing the signed document to the Court for adoption and filing.

Section IX of the sample order provides the Court with two suggested orders regarding the level of supervision that the monitor is expected to provide. Below you will find a brief explanation of the factors that should be considered in determining what level of supervision should be ordered and when you may want to consider including one of these provisions in an order.

- The monitor may leave the visiting parent and child alone, but must listen to their interaction.**

*Comment: These non-clinical monitors are reserved for situations in which the Court is concerned about parenting ability, not about the child's safety. These cases might include teaching a parent to change diapers, assisting in feeding the child, treatment of medical issues (administration of medication), or helping in failure to thrive situations.*

- The monitor must be physically present and must not leave the visiting parent and child alone.**

*Comment: These non-clinical monitors are reserved for situations in which the Court is concerned about the physical safety of the child. These cases might include anger management and domestic violence issues, sexual abuse concerns, issues with sexual or personal boundaries, child maltreatment, potentially detrimental mental health instability, a parent who says negative things about the other parent, flight risk, or substance abuse.*

The sample order also provides the Court with an opportunity to designate specific times and locations for the visitation, as well as who will be responsible for transporting the children to and from the visitation. High conflict families may require very detailed orders to prevent unnecessary disagreements. When the Court is concerned with specific behavior from a parent, the order can be customized to give direction to the monitor as well as the parents.

#### **D. Other Resources for the Parents and the Monitor**

The concept of supervised parenting time may be a new one for both the parents and the monitor. Addendum B provides some



direction to the monitor, and information to the parents, about what role the monitor should play in determining activities that take place during parenting time.

Addendum C provides a sample log for monitors to use in reporting back to each parent, the attorneys regarding the parenting time and any incidents that took place.



Circumstances may dictate the level of reporting that is required. If there is a history of inconsistent or tardy participation in parenting time, the log may provide a means to record improvement or continued problems. The log can also be used to by the monitor to report any incidents that required the monitor to intervene for the safety or security of the child. The log format is intended to provide the non-clinical monitor with prompts to report the specific details of

the incident and to provide feedback to both parents and to the Court, if necessary, regarding parenting time.

# **ADDENDUM A:**

# Sample Order and Acknowledgement for Monitored Parenting Time

SUPERIOR COURT OF ARIZONA  
\_\_\_\_\_ COUNTY

In Re the Matter of:

Case No. \_\_\_\_\_

\_\_\_\_\_  
Petitioner

**ORDER AND ACKNOWLEDGEMENT  
FOR MONITORED PARENTING TIME**  
(Non-clinical)

\_\_\_\_\_  
Respondent

## I. DEFINITIONS

- A. Custodial parent: the parent who has physical custody of the child.
- B. Monitored parenting time: Court-ordered contact between a child and a parent that is observed by a third party.
- C. Non-clinical monitor: a person such as a family member, friend, teacher, or other responsible community member who observes the child and visiting parent.
- D. Visiting parent: the parent ordered by the Judge to visit the child while monitored.

## II. PURPOSE OF MONITORED VISITATION

Monitored visits are ordered by the Judge to:

Provide the child with safe, regular visits with the visiting parent;

Protect the visiting parent from false accusations; and

Assure the custodial parent that the child is safe while visiting the other parent.

## III. AGREEMENTS OF MONITOR

- A. I will remind the parents and the child of the monitored visitation rules, when necessary.
- B. I understand my role is to keep visits safe.
- C. I will not become involved in the parental conflict.
- D. I will not leave the place where the visit occurs at any time during the visit.
- E. I will make a written report of the visit, as ordered by the Judge. The written report is not confidential.
- F. I will not allow any secret communications between the visiting parent and the child, including whispering, passing of notes, hand signals, body signals, and using a language I do not understand.
- G. I will speak in a language spoken by the child and the visiting parent.
- H. I will not permit anyone to discuss the court case in front of the child or where the child can hear the discussion.
- I. I will end the visit immediately if the visiting parent does **ANY** of the following:

Appears to be under the influence of drugs or alcohol;

Behaves badly by showing anger, making threats, refusing to follow the monitored visit rules, continuing to use bad language, or verbally, physically or sexually abusing the child;

Speaks negatively about the other parent or family members; or

Brings weapons to the visit (guns, knives, pepper spray, tazer gun, etc.).

- J. I will take appropriate action if the child becomes ill, including ending the visit.
- K. I will follow all of the Judge's instructions.

**IV. MONITOR'S ACKNOWLEDGMENT**

I have read, understand, and agree to follow the rules, terms and conditions set forth in this document and as ordered by the Judge.

DATED: \_\_\_\_\_

Signature

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_



**V. AGREEMENTS OF VISITING PARENT**

- A. I will follow the ordered visit schedule.
- B. I will be on time every visit.
- C. I will not cancel the visit unless there is an emergency.
- D. I am responsible for making the visit a positive experience for my child.
- E. I will focus my attention on my child, not on the monitor.
- F. I will not discuss the court case in front of my child or where my child can hear the discussion.
- G. I will not communicate secretly with my child; I will not whisper, pass notes, use hand signals, use body signals, or use a language the monitor does not understand.
- H. I will speak in a language spoken by my child and the monitor.
- I. I understand that the visit will end if:

I am under the influence of drugs or alcohol;

I behave badly by showing anger, making threats, refusing to follow the monitored visit rules, continue to use bad language, and verbally, physically or sexually abuse my child;

I speak negatively about the other parent or family members; or

I bring a weapon to the visit (guns, knives, pepper spray, tazer gun, etc.).

- J. I will follow all of the Judge's instructions.

**VI. VISITING PARENT'S ACKNOWLEDGMENT**

I have read, understand, and agree to follow the rules, terms and conditions set forth in this document and as ordered by the Judge.

DATED: \_\_\_\_\_  
\_\_\_\_\_

Signature

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**VII. AGREEMENTS OF THE CUSTODIAL PARENT**

- A. I will follow the ordered visit schedule.
- B. I will be on time every visit.
- C. I will not cancel the visit unless there is an emergency.
- D. I will help my child have a good visit.
- E. I will not discuss the court case in front of my child or where my child can hear the discussion.
- F. I will remain calm and reassuring to my child when dropping off and picking up my child.
- G. I will provide the monitor with my phone number in case of an emergency.
- H. I will listen to what my child tells me about the visit. I will not make negative remarks regarding the visit or the other parent. If I have specific questions or concerns regarding the visit I will ask the monitor.
- I. I will follow all of the Judge's instructions.

**VIII. CUSTODIAL PARENT'S ACKNOWLEDGMENT**

I have read, understand, and agree to follow the rules, terms and conditions set forth in this document and as ordered by the Judge.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature


Name: \_\_\_\_\_


Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

**IX. ADDITIONAL JUDGE'S ORDERS**

A. Level of Monitoring:

 The monitor may leave the visiting parent and child alone, but must listen to their interaction.

 The monitor must be physically present and must not leave the visiting parent and child alone.

B. Schedule:

\_\_\_\_\_  
\_\_\_\_\_

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C. Location:

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D. Transportation:

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E. Monitor's Written Report:

-  No report required.
-  Use the monitored visitation log which includes the date of visit, did the parents follow the rules, document what happened if the visit ended or was cancelled.
-  Other:

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F. Person responsible for returning signed Order and Acknowledgement to Judge:

Name: \_\_\_\_\_

Date Due: \_\_\_\_\_

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G. Other Orders

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IT IS ORDERED approving this Acknowledgement for Monitored Parenting Time as a formal Order of the Court.

DATED: \_\_\_\_\_

\_\_\_\_\_  
HONORABLE

# **ADDENDUM B:**

## Recommendations for Activities for Supervised Visitation

## **RECOMMENDATIONS FOR ACTIVITIES FOR SUPERVISED VISITATION**

If a judge has appointed you as a monitor, you likely are wondering, "What activities should I allow when a parent is participating supervised parenting time?" It is a valid question for you as the monitor. The answer really depends on two things: the reason that the judge ordered the supervision and the age of the child.

The following provides a list of some suggested activities that the supervised parent can use to engage and interact with the child. Other activities may be appropriate as well. As the monitor, you may allow other activities that are not on the list. You should always look at the Judge's order to determine if any specific activities are acts that are not allowed, such as touching the child or undressing the child.

In deciding what activities are appropriate if they are not on the list, the questions for you as the monitor to consider are:

Is the activity likely to raise an issue that the Judge was trying to prevent by having me supervise the parenting time?

Is the activity age-appropriate?

With the above in mind, below are some suggested activities that will be age-appropriate in most cases.

### **Preschoolers: (ages 3 to 5)**

Art projects such as coloring, finger paint, Play-Doh,

Puppet and stuffed animal play

Sorting beads

Blocks

Puzzles

Educational workbooks

Reading

### **Young, school-aged children: (6 to 9)**

Art projects

Puzzles

Crafts: bead necklaces, friendship bracelets, lanyards

Reading

Board games

Blocks/Legos

**Older, school-aged children (9 to 12)**

Puzzles

Arts and crafts

Reading

Board games

Writing songs/singing

Blocks/Legos

Homework

**Adolescents (13 to 18)**

Digital/computer games

Reading

Board games

Constructing family journals/scrapbooks

Homework

# ADDENDUM C:

## Sample Supervised Visitation Log

### SUPERVISED VISITATION LOG

- The Supervisor must complete this Supervised Visitation Log after **every** supervised visitation. The Supervisor and
- The Supervisor must give a copy of the log to each parent (or the parent's attorney) on a monthly basis. If the Judge
- The Supervisor must keep the original log.

MONITOR: \_\_\_\_\_ CUSTODIAL PARENT: \_\_\_\_\_

CUSTODIAL PARENT: \_\_\_\_\_ PHONE #: \_\_\_\_\_

VISITING PARENT: \_\_\_\_\_ PHONE #: \_\_\_\_\_

CHILD/REN: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

	VISIT 1	VISIT 2
DATE		
LOCATION		
START & END TIME		
DESCRIBE THE EXCHANGE		
DESCRIBE THE VISITING PARENT: Note your observations such as the parent's emotions (Happy or Sad), the parent's interaction with the child/ren, and appropriateness of parent's the		



behavior		
OBSERVATION OF CHILD/REN: Please note actual observations such as emotional assessment (Happy or Sad), How the child interacted with parent, and appropriateness of child's behavior		
PRIMARY ACTIVITY		
DESCRIBE ANY CONCERNS ABOUT THE LOCATION		
OTHER: List anything of concern.		
<u>Initials</u>	Supervisor's: _____ Parent's: _____	Supervisor's: _____ Parent's: _____

**INCIDENT REPORT**

This Incident Report must be completed and signed by a parent or the supervisor in the event that any supervised parenting time session is terminated or the supervisor believes a child was in danger of physical, mental, moral, or emotional harm.

The parent who does not have supervised parenting time must file this Incident Report with the Judge.

If the parent who does not have supervised parenting time wants the Judge to take some action because of the information in the Incident Report, that parent must file a motion that asks the Judge take some action. Filing the Incident Report alone is not enough.

Examples of situations when the session should be terminated include:

- The parent appears to be under the influence of drugs or alcohol.
- The parent behaves badly by showing anger, making threats, refusing to follow the rules, continuing use of bad language (after more than one warning to stop by the supervisor), or verbally, physically or sexually abusing the child.
- The parent speaks negatively about the other parent or family members.
- The parent brings weapons to the visit (guns, knives, pepper spray, tazer gun, etc.) and refuses to remove the weapon from the location.

The above are only some examples. Other incidents may cause the child to be in danger of physical, mental, moral, or emotional harm.

MONITOR: \_\_\_\_\_

CUSTODIAL PARENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CUSTODIAL PARENT: \_\_\_\_\_

PHONE #: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VISITING PARENT: \_\_\_\_\_

PHONE #: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CHILD/REN: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Date of the Visit: \_\_\_\_\_ Person who is completing this Incident Report: \_\_\_\_\_

Describe the Incident: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please sign your name here: \_\_\_\_\_

Please print your name here: \_\_\_\_\_