

## New Mexico Drug Court Standards

- DCAC and history of the Standards
- Purpose and process
- Overview and highlights

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## A Little History

- LFC Audit of Drug Courts in 2002
  - Findings of some problematic inconsistencies
- 2003 Supreme Court Order creating DCAC
  - “provide ongoing review and revision of drug court standards”
- First version approved in January 2004
  - Topic/outline format

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# New Mexico Judiciary

## Drug Court Standards

Original: January 16, 2004  
Revised and Approved: September 4, 2013

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PREAMBLE

All drug courts established and operating at any level of the New Mexico Judicial System shall comply with these standards and operate as qualified drug court programs consistent with the definition stated herein.

STANDARDS

A. CURRENT ELIGIBILITY STANDARDS..... 1

B. SUITABILITY STANDARDS ..... 3

C. OPERATIONAL STANDARDS ..... 4

D. COURTROOM STANDARDS ..... 8

E. PROGRAM FEES AND DRUG COURT BUDGETS ..... 9

F. SANCTIONS AND INCENTIVES..... 11

G. CONFIDENTIALITY - GENERAL..... 12

H. DATA COLLECTION ..... 16

I. TREATMENT STANDARDS ..... 21

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E. PROGRAM FEES AND DRUG COURT BUDGETS

Program Fees

Standard E.1 Juvenile drug courts shall not collect program fees.

Standard E.2 Adult drug court programs may assess, collect and expend program fees consistent with state law. All drug courts that elect to assess fees shall submit that written fee policy to the AOC. Fees may be expended to offset client service costs of the drug court program. Client services may include:

- a. Treatment costs
- b. Drug and alcohol testing
- c. Training for drug court team members
- d. Childcare
- e. Monitoring and compliance services and equipment
- f. Psychological screening and assessments
- g. Medical screening and assessments
- h. Assistance with transportation costs to the program
- i. Interpreter's fees
- j. Temporary housing assistance

Any proposed expenditures not included on the above list (e.g., emergency living expenses; program incentives for participants, such as medallions; or refreshments for graduation ceremonies) must first be approved by the Supreme Court. If approved by the Supreme Court, applicable DFA guidelines must be followed in relation to the proposed expenditure.

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## A Little History

- LFC Audit of Drug Courts in 2002
  - Findings of some problematic inconsistencies
- 2003 Supreme Court Order creating DCAC
  - “provide ongoing review and revision of drug court standards”
- First version approved in January 2004
- Slight revisions in 2013

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### Research and Adult DC Best Practice Standards, Vol. I & II

- Growing body of research led to NADCP Best Practices project in 2012
- Vol. I of Adult DC Best Practice Standards published in June 2013
- Vol. II in July 2015
- Totally research driven, with NPC Research a significant provider of the research cited

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### BJA Grant

- BJA Grant and four goals
  - Best Practices self-assessment survey
  - Revised NM Drug Court Standards
  - Program certification process
  - Peer Review / Statewide Learning Community

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### Overview

- Draft version with callouts to cite source
- Change in format

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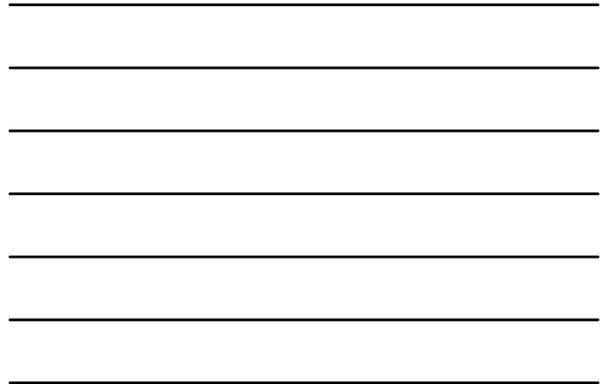
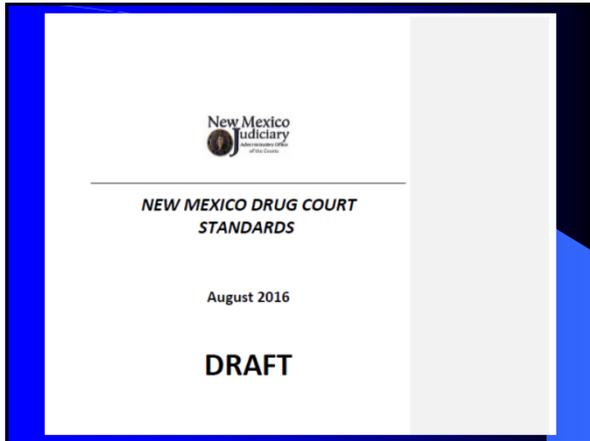
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**Table of Contents**

- Key component #1: Drug courts will integrate alcohol and other drug treatment services with justice system case processing..... 1
- Key Component #2: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights..... 4
- Key Component #3: Eligible participants are identified early and promptly placed into the drug court program..... 6
- Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services..... 9
- Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing..... 14
- Key Component #6: A coordinated strategy governs drug court responses to participants' compliance..... 16
- Key Component #7: Ongoing judicial interaction with each drug court participant is essential..... 19
- Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness..... 21
- Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation and operations..... 23
- Key Component #10: Forging partnerships among drug courts, public agencies and community-based organizations generates local support and enhances drug court program effectiveness..... 25
- Appendix A: Performance Measure Definitions and Business Rules..... 26
- Appendix B: Definitions..... 28
- Appendix C: Probation/Supervision Officer Policies and Procedures (NC 1)..... 30
- Appendix D: Confidentiality (NC 1)..... 32
- Appendix E: Violent Offenders (NC 1)..... 36



**Key component #1: Drug courts will integrate alcohol and other drug treatment services with justice system case processing.**

- 1-1** All participating agencies shall cooperate with efforts to establish drug courts which meet the minimum standards of the judicial branch. Comment (P61) 30B.C.1
- 1-2** Courts recognize the drug court calendar as a priority and will establish a specialized, separate drug court, on a part or full-time basis, dedicated to the evaluation, diagnosis, treatment and supervision of eligible drug court participants as defined later in this document. Comment (P62) 30B.D.1
- 1-3** Each participating agency shall, if funding is available, assign staff, and alternates, to be designated to the drug court based on personal interest in the drug court, interpersonal skills, motivation and professional abilities, within their job description. Comment (P63) 30B.C.2
- 1-4** Wherever feasible, agencies will make full or part-time staff assignments to the drug court for a minimum of 2 years to ensure stability and continuity of day-to-day operations and to strengthen collaborative relationships between the key professionals. Comment (P64) 30B.C.3, Practice #1
- 1-5** Drug court budgets shall consider the staffing needs of the required stakeholders, and each court shall review funding and attempt to support, to whatever extent possible, the following personnel: public defender, prosecution, drug court program manager, treatment staff, probation/parole, law enforcement, judge/special master, and court staff who support the drug court. Comment (P65) 30B.E.7
- 1-6** For internal court operations, each court shall prepare a separate budget for family dependency courts, juvenile drug courts, adult drug courts, and any other drug courts that may exist. Comment (P66) 30B.E.8
- 1-7** The drug court team shall include the following roles/agencies: judge, prosecuting and defense attorneys, treatment provider, court coordinator, case manager, probation/parole, and law enforcement. Depending on local program design, other appropriate key stakeholders should be added to the team (e.g., child welfare, housing providers, etc...). Comment (P67) 30B.H.A



## NM Drug Court Standards

- DCAC Process
  - Field comments
  - Default approach to two sources
  - Committee review and vote on any changes
- Pending Supreme Court approval

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## Overview (con't)

- Draft version with callouts to cite source
- Change in format
- Preamble
  - 10 Key Components and applicability to all programs
  - “Appeal” process
- Walkthrough of callouts to source document to research

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**PREAMBLE**

All drug courts established and operating at any level of the New Mexico Judicial System shall comply with these standards and operate as qualified drug courts consistent with the definition stated herein.

The New Mexico Drug Court Standards provide guidance to best practices and are founded upon the Ten Key Components of Drug Courts and consistent with the Adult Drug Court Best Practice Standards, Volume 1 & 2, developed by the National Association of Drug Court Professionals. **The Ten Key Components are applicable to all specialty courts regardless of type (e.g., adult, mental health, family, juvenile, divi, veteran, etc.).** These standards will evolve over time to include additional research and specific guidance for those specialty courts that serve juveniles, families, veterans, and so forth.

These standards and best practices are based upon numerous program evaluations and years of research findings. These standards are intended to serve as ideal expectations. Exceptions to these standards may be necessary due to individual circumstances, local challenges, and the specific needs of the target population. Caution should be exercised when deviating from the standards to avoid drifting from best practice, and **any questions regarding the need to deviate from these standards should be addressed to the Drug Court Advisory Committee through the Statewide Drug Court Coordinator.** Each section of the New Mexico Drug Court Standards corresponds with one of the Ten Key Components of drug court. The standards provide greater detail about each key component and include best practices recognized through research.

The main purpose for the best practice standards is to maintain a level of not only consistency of practice throughout the state of New Mexico, but to assure a level of quality that each court applies as it serves in this function for those receiving services. The New Mexico Drug Court Advisory Committee is always striving to assist courts in the most up to date practices and processes to enhance the work done by drug court practitioners.

**Comment (P81):** Original Preamble. The rest is new.

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**Key component #1: Drug courts will integrate alcohol and other drug treatment services with justice system case processing.**

- 1-1 All participating agencies shall cooperate with efforts to establish drug courts which meet the minimum standards of the judicial branch. Comment (PB1) 38B.C.1
- 1-2 Courts recognize the drug court calendar as a priority and will establish a specialized, separate drug court, on a part or full-time basis, dedicated to the evaluation, diagnosis, treatment and supervision of eligible drug court participants as defined later in this document. Comment (PB2) 38B.D.1
- 1-3 Each participating agency shall, if funding is available, assign staff, and alternates, to be designated to the drug court based on personal interest in the drug court, interpersonal skills, motivation and professional abilities, within their job description. Comment (PB3) 38B.C.2
- 1-4 Wherever feasible, agencies will make full or part-time staff assignments to the drug court for a minimum of 2 years to ensure stability and continuity of day-to-day operations and to strengthen collaborative relationships between the key professionals. Comment (PB4) 38B.C.3, Practice #1
- 1-5 Drug court budgets shall consider the staffing needs of the required stakeholders, and each court shall review funding and attempt to support, to whatever extent possible, the following personnel: public defender, prosecution, drug court program manager, treatment staff, probation/parole, law enforcement, judge/special master, and court staff who support the drug court. Comment (PB5) 38B.E.7
- 1-6 For internal court operations, each court shall prepare a separate budget for family dependency courts, juvenile drug courts, adult drug courts, and any other drug courts that may exist. Comment (PB6) 38B.E.8
- 1-7 The drug court team shall include the following roles/agencies: judge, prosecuting and defense attorneys, treatment provider, court coordinator, case manager, probation/parole, surveillance, and law enforcement. Depending on local program design, other appropriate key stakeholders should be added to the team (e.g., child welfare, housing providers, etc.). Comment (PB7) 38B.H.1A

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## VIII. MULTIDISCIPLINARY TEAM

A dedicated multidisciplinary team of professionals manages the day-to-day operations of the Drug Court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment and supervision services.

- A. Team Composition
- B. Pre-Court Staff Meetings
- C. Sharing Information
- D. Team Communication and Decision Making
- E. Status Hearings
- F. Team Training

**A. Team Composition**

The Drug Court team comprises representatives from all partner agencies involved in the creation of the program, including but not limited to a judge or judicial officer, program coordinator, prosecutor, defense counsel representative, treatment representative, community supervision officer, and law enforcement officer.

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### COMMENTARY

The Drug Court team is a multidisciplinary group of professionals responsible for administering the day-to-day operations of a Drug Court, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment, and supervision services (Hardin & Fox, 2011). Some Drug Courts may have additional governing bodies such as Steering Committees that are not involved in the daily operations of the program, but provide oversight on policies and procedures, negotiate MOUs between partner agencies, garner political and community support for the Drug Court, or engage in fundraising. Researchers have examined the influence of the multidisciplinary Drug Court team on participant outcomes but have not addressed the influence of other governing bodies.

**A. Team Composition**

Studies reveal the composition of the Drug Court team has a substantial influence on outcomes. Drug Courts produce significantly greater reductions in criminal recidivism and are significantly more cost-effective when the following professionals are dedicated members of the Drug Court team and participate regularly in pre-court staff meetings and status hearings (Carey et al., 2008, 2012; Cissner et al., 2013; Rowman et al., 2011; Shaffer, 2010):

- **Judge**—Typically a trial court judge leads the Drug Court team; however, in some jurisdictions a nonjudicial officer such as a magistrate or commissioner may preside over the Drug Court. Nonjudicial officers usually report directly to a judge and require judicial authorization for actions that affect participants' liberty interests such as jail sanctions or discharge from the program. No study has compared outcomes between judges and nonjudicial officers.
- **Program Coordinator**—Typically a court administrator or clerk serves as the coordinator for the Drug Court program; however, some Drug Courts may employ a senior probation officer, case manager, or clinician as the coordinator. Among many other duties, the coordinator is responsible for maintaining

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- **Law Enforcement Officer**—Typically a police officer, deputy sheriff, highway patrol officer, or jail official serves on the team. Law enforcement is often the eyes and ears of Drug Court on the street, observing participant behavior and interacting with participants in the community. Law enforcement may also assist with home and employment visits, and serves as a liaison between the Drug Court and the police department, sheriff's office, jail, and correctional system.

Drug Courts may include other community representatives on their team as well, such as peer mentors, vocational advisors, or sponsors from the self-help recovery community. Studies have not examined the impact of including such persons on the Drug Court team; however, anecdotal reports suggest this practice can enhance team decision making and effectiveness (Taylor, 2014). As a condition of federal grant funding and funding from many states, Drug Courts may also be required to include an evaluator on their team beginning in the planning stages for the program and continuing during implementation. This practice helps to ensure Drug Courts collect reliable performance data to report to grant-making authorities and is generally advisable for all Drug Courts to ensure good-quality program monitoring and evaluation (see Standard X, Monitoring and Evaluation). Finally, Drug Courts may be advised to include a nurse or physician on their team if they treat substantial numbers of participants requiring medication-assisted treatment or suffering from co-occurring medical or mental health disorders.

**B. Pre-Court Staff Meetings**

The Drug Court model requires Drug Courts to hold pre-court staff meetings—commonly referred to as *staffings* or *case reviews*—to review participant progress, develop a plan to improve outcomes, and prepare for status hearings in court (Hardin & Fox, 2011; NADCP, 1997; Roper & Lesenger, 2007). Not every participant is discussed in every meeting; however, staffings are held frequently enough (typically weekly or at the same frequency as status hearings) to ensure the team has an opportunity to consider the needs of each case.

Consistent attendance by all team members at staffings is associated with significantly better outcomes (Carey et al., 2012; Cisner et al., 2013; Rossman et al., 2011; Shaffer, 2010). A multisite study of approximately seventy Drug Courts found that programs were 50% more effective at reducing recidivism when all team members—the judge, prosecutor, defense representative, program coordinator, treatment representative, law-enforcement representative, and community supervision officer—attended staffings on a consistent basis (Carey et al., 2008, 2012). Drug Courts were nearly twice as cost-effective when defense counsel attended staffings consistently, and were more than twice as effective at reducing recidivism when the program coordinator, treatment representative, and law enforcement representative attended staffings consistently (Carey et al., 2012).

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**6-17** Juvenile drug courts shall not collect program fees. Comment (PB37) 308.1.2

**6-18** Adult drug courts may assess, collect and expend program fees consistent with state law. All drug courts that elect to assess fees shall submit that written fee policy to the AOC. Fees may be expended to offset client service costs of the drug court. Comment (PB100) 308.1.2

**6-19** Drug courts must use jail/detention sanctions sparingly and with the intention of modifying participant behavior in a positive manner. **Jail/detention sanctions longer than 5 continuous days are outside of best practices.** Comment (PB181) 305.1.1

**6-20** To graduate, participants must have a job, be in school or involved in some qualifying positive activity. Comment (PB182) a best practice but not in BPS

**6-21** To graduate, participants must have a sober and sustainable housing environment that is conducive to recovery. Comment (PB183) a best practice but not in BPS

**6-22** A period greater than 90 continuous days of negative drug test results shall be required before a participant is eligible to graduate from the drug court. Comment (PB184) a best practice but not in BPS

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**I. Phase Promotion**

Phase promotion is predicated on the achievement of realistic and defined behavioral objectives, such as completing a treatment regimen or remaining drug-abstinent for a specified period of time. As participants advance through the phases of the program, sanctions for infractions may increase in magnitude, rewards for achievements may decrease, and supervision services may be reduced. Treatment is reduced only if it is determined clinically that a reduction in treatment is unlikely to precipitate a relapse to substance use. The frequency of drug and alcohol testing is not reduced until after other treatment and supervisory services have been reduced and relapse has not occurred. If a participant must be returned temporarily to the preceding phase of the program because of a relapse or related setback, the team develops a remedial plan together with the participant to prepare for a successful phase transition.

**J. Jail Sanctions**

**Jail sanctions are imposed judiciously and sparingly.** Unless a participant poses an immediate risk to public safety, jail sanctions are administered after less severe consequences have been ineffective at deterring infractions. **Jail sanctions are definite in duration and typically last no more than three to five days.** Participants are given access to counsel and a fair hearing if a jail sanction might be imposed because a significant liberty interest is at stake.

**K. Termination**

Participants may be terminated from the Drug Court if they no longer can be managed safely in the community or if they fail repeatedly to comply with treatment or supervision requirements. Participants are not terminated from the Drug Court for continued substance use if they are otherwise compliant with their treatment and supervision conditions, unless they are nonamenable to the treatments that are reasonably available in their community. If a participant is terminated from the Drug Court because adequate treatment is not available, the participant does not receive an augmented sentence or disposition for failing to complete the program.

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**J. Jail Sanctions**

The certainty and immediacy of sanctions are far more influential to outcomes than the magnitude or severity of the sanctions (Harrell & Roman, 2001; Marlowe et al., 2005; Nagin & Pogarsky, 2011). As was noted earlier, sanctions that are too high in magnitude can lead to ceiling effects in which outcomes may become stagnant or may even be made worse.

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ADULT DRUG COURT BEST PRACTICE STANDARDS

Drug Courts are significantly more effective and cost-effective when they use jail sanctions sparingly (Carey et al., 2008b; Hepburn & Harvey, 2007). Research in Drug Courts indicates that jail sanctions produce diminishing returns after approximately three to five days (Carey et al., 2012; Hawken & Kleiman, 2009). A multisite study found that Drug Courts that had a policy of applying jail sanctions of longer than one week were associated with increased recidivism and negative cost-benefits (Carey et al., 2012). Drug Courts that relied on jail sanctions of longer than two weeks were two and a half times less effective at reducing crime and 45% less cost-effective than Drug Courts that tended to impose shorter jail sanctions.

Because jail sanctions involve the loss of a fundamental liberty interest, Drug Courts must ensure that participants receive a fair hearing on the matter (Meyer, 2011). Given that many controversies in Drug Courts involve un-complicated questions of fact, such as whether a drug test was positive or whether the participant missed a treatment session, truncated hearings can often be held on the same day and provide adequate procedural due process protections.

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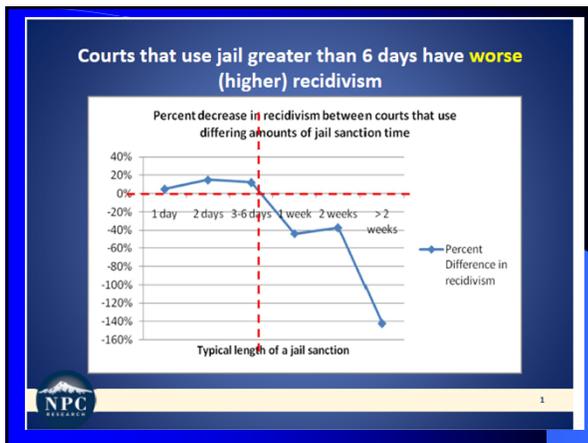
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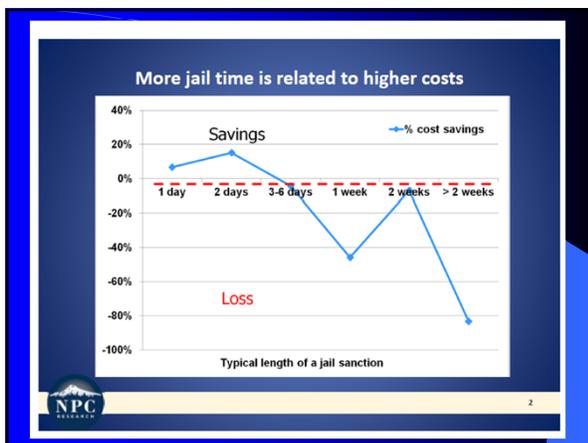
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## BJA Grant

- Best Practices Self-Assessment
- Revised Drug Court Standards
- Program Certification Process
- Peer Review / Statewide Learning Community

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## Questions?

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