

10-564. Order appointing/changing educational decision maker.

STATE OF NEW MEXICO
COUNTY OF _____
_____ JUDICIAL DISTRICT
IN THE CHILDREN'S COURT

STATE OF NEW MEXICO ex rel.
CHILDREN, YOUTH AND FAMILIES DEPARTMENT

No. _____

In the Matter of

_____, (a) Child(ren), and Concerning
_____, Respondent(s).

**ORDER APPOINTING/CHANGING
EDUCATIONAL DECISION MAKER**

This matter came before the [Honorable _____] [Special Master _____], on _____ (date) for _____ hearing. The New Mexico Children, Youth and Families Department (CYFD) was represented by _____, children's court attorney. _____ (name(s) of child(ren)) was/were [not] present [and] [but] was/were represented by _____, (guardian *ad litem*/attorney). (*Expand as necessary*) Respondent(s) _____ was/were [not] present [by telephone] [and] [but] was/were represented by attorney _____. (*Expand-modify as necessary*) The CASA was [not] present. (*If applicable*) A court certified interpreter did [not] provide interpretation services for the hearing.

The Court has heard the [evidence] [stipulation of the parties], reviewed the pleadings, is fully advised in the matter, and FINDS:

1. _____ (name(s) of respondent(s)) should [not] make educational decisions regarding _____ (name(s) of child(ren)) and should [not] have authority as the parent for the purposes of the Family Educational Rights and Privacy Act (FERPA).
2. (*If applicable, otherwise delete*) The appointment of _____ as _____'s (name(s) of child(ren)) educational decision maker should not continue.
3. (*If applicable, otherwise delete*) The appointment of _____ as _____'s (name(s) of child(ren)) parent for the purpose of obtaining and releasing school records under FERPA should not continue.
4. (*If applicable, otherwise delete*) _____ should be appointed _____'s (name(s) of child(ren)) educational decision maker.
5. (*If applicable, otherwise delete*) _____ should be appointed _____'s (name(s) of child(ren)) parent for the purpose of obtaining and releasing school records under FERPA.

IT IS THEREFORE ORDERED:

1. _____ is appointed _____'s (*name(s) of child(ren)*) educational decision-maker. As the educational decision-maker for _____ (*name(s) of child(ren)*), _____ may request school meetings, may attend school meetings, and may make decisions about _____'s (*name(s) of child(ren)*) education that a parent could make under law, including decisions about _____'s (*name(s) of child(ren)*) educational setting and the development and implementation of an individualized education plan for _____ (*name(s) of child(ren)*).

2. _____ is authorized to act as _____'s (*name(s) of child(ren)*) parent under FERPA for the purpose of obtaining and releasing school records.

3. (*If applicable, otherwise delete*) The appointment(s) of _____, who was/were previously appointed _____'s (*name(s) of child(ren)*) educational decision maker is/are terminated.

4. (*If applicable, otherwise delete*) The appointment(s) of _____, who was/were previously authorized to act as (a) parent(s) under FERPA for the purpose of obtaining and releasing school records, is/are terminated.

District Court Judge

(Add signature lines for all attorneys in the case)

USE NOTES

1. The appointment of an educational decision maker implicates significant educational rights for children and must be reviewed throughout the duration of the case. The individual appointed to be the educational decision maker should be a person who knows the child, is willing to accept responsibility for making educational decisions, does not have any personal or professional interests that conflict with the interests of the child, and is able to make any necessary educational decisions, including decisions related to whether the child is a child with a disability under the federal Individuals with Disabilities Education Act. See, e.g., 34 C.F.R. § 300.519(d) (listing criteria for the selection of surrogate parents for wards of the state, which preclude guardians ad litem and CYFD caseworkers from serving in this role); see also 34 C.F.R. § 300.30 (defining "Parent" as used in federal Department of Education regulations).

[Adopted by Supreme Court Order No. 14-8300-009, effective for all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. S-1-RCR-2023-00016, effective for all cases pending or filed on or after December 31, 2023.]