

**PROPOSED REVISIONS TO THE CHILDREN’S COURT RULES AND FORMS
PROPOSAL 2023-004**

March 24, 2023

The Children’s Court Rules Committee has recommended amendments to Form 10-564 NMRA for the Supreme Court’s consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court’s web site at <http://supremecourt.nmcourts.gov/open-for-comment.aspx> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
nmsupremecourtclerk@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 24, 2023, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court’s web site for public viewing.

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 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 individual 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. _____, effective for all cases pending or filed on or after _____.]



New Mexico
Courts

Amy Feagans <supajf@nmcourts.gov>

[nmsupremecourtclerk-grp] Correspondence from Chief Judge Marie Ward re: Proposed Rule Changes

4 messages

Matthew MacEachen <albdmum@nmcourts.gov>

Mon, Apr 24, 2023 at 9:28 AM

Reply-To: albdmum@nmcourts.gov

To: nmsupremecourtclerk@nmcourts.gov

Good morning Ms. Garcia,

Please see the attached letter from Chief Judge Ward from the 2nd Judicial District Court.

If you have questions or need anything further regarding this, please let me know.

Thank you.

Matthew MacEachen
Trial Court Administrative Assistant to
Chief Judge Marie Ward
Division XIV
505-841-7392
albdmum@nmcourts.gov



Correspondence from Chief Ward.pdf
246K

Elizabeth Garcia <supeag@nmcourts.gov>

Mon, Apr 24, 2023 at 9:34 AM

To: Amy Feagans <supajf@nmcourts.gov>

Good morning Amy, and Happy Monday. Thank you Amy for acknowledging receipt at your convenience.

Liz

[Quoted text hidden]

--

Elizabeth A. Garcia
Chief Clerk of Court
New Mexico Supreme Court
[237 Don Gaspar Avenue](https://www.nm.gov/237-Don-Gaspar-Avenue)
[Santa Fe, NM 87501](https://www.nm.gov/santa-fe)
505-827-4862
supeag@nmcourts.gov



Correspondence from Chief Ward.pdf
246K

Amy Feagans <supajf@nmcourts.gov>

Mon, Apr 24, 2023 at 9:43 AM

To: Elizabeth Garcia <supeag@nmcourts.gov>

Will do. Thanks Liz!

[Quoted text hidden]

--

Amy Feagans

Appellate Paralegal

Supreme Court of New Mexico

505.827.4704

237 Don Gaspar Ave | Santa Fe, NM 87504

nmsupremecourtclerk <nmsupremecourtclerk-grp@nmcourts.gov>

Mon, Apr 24, 2023 at 9:45 AM

Reply-To: nmsupremecourtclerk-grp@nmcourts.gov

To: nmsupremecourtclerk <nmsupremecourtclerk-grp@nmcourts.gov>

Cc: Matthew MacEachen <albdmum@nmcourts.gov>

Mr. MacEachlen,

We are in receipt of your email and the attached comments from Judge Ward.

The Supreme Court Clerk's Office

[Quoted text hidden]



STATE OF NEW MEXICO
SECOND JUDICIAL DISTRICT

MARIE C. WARD
CHIEF JUDGE

April 24, 2023

505-841-7392
POST OFFICE BOX 488
ALBUQUERQUE, NEW MEXICO 87103

Elizabeth Garcia, Chief Clerk
New Mexico Supreme Court
P.O. Box 848
Santa Fe, NM 87504-0848
nmsupremecourtclerk@nmcourts.gov

Re: Request for comment on:

- **Proposal 2023-001 – Detention Hearings and Conditions of Release [Rule 10-225 NMRA]**
- **Proposal 2023-002 – Notification to Tribes of Change of Placement [Forms 10-565 and 10-566 NMRA]**
- **Proposal 2023-003 – Consent Decree Order [Form 10-714 NMRA]**
- **Proposal 2023-004 – Educational Decision Maker Form [Form 10-564 NMRA]**

Dear Ms. Garcia:

Thank you for the opportunity to provide commentary on the proposed changes to the above-referenced rules. I am writing as the Chief Judge of the Second Judicial District Court ("SJDC") and as a Judge in the Children's Court Division. The SJDC Children's Court Division consists of four (4) District Court Judges and three (3) hearing officers/special masters. The daily work of our judicial officers is almost exclusively in delinquency and abuse/neglect, and we are well-positioned to understand the practical effect of the proposed changes.

On behalf of the SJDC, we support the Children's Court Rules Committee's recommendations to modify the above-referenced rules and forms. We believe they provide clarity to practitioners and properly capture the legal requirements.

Thank you for your time and consideration in this matter.

Respectfully,

Marie Ward, Chief Judge
Second Judicial District Court