

1 Lisa M. Panahi, Bar No. 023421
2 General Counsel
3 State Bar of Arizona
4 4201 N. 24th Street, Suite 100
5 Phoenix, AZ 85016-6288
6 (602) 340-7236

7 **IN THE SUPREME COURT**
8 **STATE OF ARIZONA**

9 In the Matter of:

Supreme Court No. R-23-0007

10 **PETITION TO AMEND RULES**
11 **44.1(c), 45(c), 78(g) AND 91.3 OF**
12 **THE ARIZONA RULES OF**
13 **FAMILY LAW PROCEDURE**

COMMENT

14 Pursuant to Rule 28(e) of the Arizona Rules of Supreme Court, the State Bar
15 of Arizona (the “State Bar”) hereby submits the following as its comment to the
16 above-captioned Petition.

17 The Petition was studied by the State Bar’s Family Law Practice and
18 Procedure Committee and this Comment is the product of the Committee’s review
19 and discussion of the Petition. While the State Bar supports the concept of an
20 education order, as proposed in the Petition, the State Bar believes a task force
21 should be convened to develop a corresponding rule that would address ambiguities
22 such as those set forth in this Comment.
23

24 Currently, Arizona's revised statutes are silent on a separate educational order.
25

1 As such, the State Bar believes that a corresponding rule would be helpful in defining
2 rights and expectations associated with an education order. A clear rule would
3 address the following issues:
4

- 5 1. Attorneys and parties should have the option to advocate for additional
6 terms to be included in order.
- 7 2. The order cannot contain a term not in the party's parenting plan.
- 8 3. "Parent" should be clearly defined because of stepparent considerations.
- 9 4. "School" also needs to be defined. Does it include preschool? Do some
10 daycares that offer an educational component qualify as a school?
11

12 Additional considerations that should be addressed based on the proposed
13 form attached to the Petition include:
14

- 15 1. What happens if there is a different legal decision-making order for each
16 child?
- 17 2. Legal Decision Making: What is the difference between presumptive and
18 final decision-making after good faith efforts? If sole legal decision-
19 making exists, is a good-faith effort to resolve the dispute required?
20
- 21 3. Access to School Grounds: Should there be a requirement that the parties
22 communicate, or should the parenting plan add some structure?
23
- 24 4. Extra-Curricular Activities: Is this just for activities associated with the
25 school, or does the order carry over to non-school outside activities? Is a

1 lunch activity included? What if one parent signs the child up and
2 interferes with the other parent's parenting time? The form gives a parent
3 with final or sole authority to only allow the child to participate in activities
4 on their days while denying all activities on the other parent's day.
5

6 5. Access to School Records: There is a concern that this section can
7 contradict Arizona Revised Statutes §15-102 and §15-143; these statutes
8 govern parental access to school records.
9

10 6. Curriculum and Instructions Disputes: There is a concern that this section
11 may contradict Arizona Revised Statutes §15-102 and §15-143; these
12 statutes govern parental access to school records.
13

14 7. Special Services: One parent should not be able to block services for a
15 child. It can be very detrimental to the child if the services are blocked.
16

17 8. School Selection: This paragraph allows a parent to enroll a child in a
18 school to reserve a child's place at that school. Consideration should be
19 given as to whether this act constitutes a change in legal decision making
20 or is a violation of the parenting plan.
21

22 9. Joint Communication: Nothing in the proposed education order addresses
23 communication between the parents and the school. How they are to
24 communicate with the school. Should one parent copy the other? Should
25 the teacher copy one or both parents?

1 **CONCLUSION**

2 Based on the considerations set forth above, the State Bar of Arizona
3 respectfully requests that the Court continue consideration of this Petition and form
4 a state-wide task force be formed to study and resolve issues with the form proposed
5 in the Petition and if a corresponding rule would resolve such issues. The State Bar
6 also believes that this task force should have adequate state-wide representation of
7 professionals in this area of practice.
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9

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11 RESPECTFULLY SUBMITTED this 27th day of April, 2023.

12
13 */s/ Lisa M. Panahi*

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Lisa M. Panahi
15 General Counsel
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17 Electronic copy filed with the
18 Clerk of the Supreme Court of Arizona
19 this 27th day of April, 2023.

20 by: P Seguin
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