

IT IS ORDERED that, in accordance with Rule 28(h)(2), Rules of the Supreme Court, Rules 44.1(e), 45(c), 78(g), 91.3, and 97, Rules of Family Law Procedure, are amended on an emergency basis in accordance with Attachment A to this order, and Forms 19 and 20 to Rule 97, Rules of Family Law Procedure, are hereby adopted on an emergency basis in accordance with Attachment B to this order, effective January 1, 2024.

IT IS FURTHER ORDERED that, pursuant to Rule 28(h)(2), Rules of the Supreme Court of Arizona, this matter shall be opened for public comment as to whether these amendments should be adopted permanently, with comments due no later than May 1, 2024, and any reply due no later than June 1, 2024. The Court will consider this issue at its August 2024 Rules Agenda.

DATED this 24th day of August, 2023.

/s/

ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution

Hon Bruce R Cohen

Susan Pickard

Lynne C Adams

Clyde R Dangerfield

Jordan T Ellel

David D Garner

Denise Lowell-Britt

Jennifer N MacLennan

Jessica S Sanchez

Sesaly O Stamps

Marie Piccarreta

Lisa M Panahi

ATTACHMENT A¹

RULES OF FAMILY LAW PROCEDURE

Rule 44.1. Default Decree or Judgment by Motion and Without a Hearing

(a)-(d) [No change]

(e) **When Children Are Involved or a Party is Pregnant.** When the parties have children in common or a party is pregnant, the default decree must include the following:

(1) whether either party is pregnant with a child common to the parties;

(2) provisions for legal decision-making and parenting time, either within the default decree or by a separate parenting plan;

(3) an “Education Order” substantially in conformity with Rule 97, Form 19 or Form 20, as appropriate;

~~(3)~~(4) a child support order supported by a child support worksheet, but if a party requests any deviation in the child support amount, the default decree or child support order must state the basis for deviation under the child support guidelines;

~~(4)~~(5) if either party is receiving benefits under Temporary Assistance for Needy Families (TANF) or the Title IV-D program, the parties must attach to the default decree the Attorney General's written approval of any specified child support amount;

~~(5)~~(6) a copy of the filing parent's certificate of completion of the parent information program, if it has not already been filed with the court;

~~(6)~~(7) a completed income withholding order, including the current employer information sheet;

~~(7)~~(8) if the parties are requesting joint legal decision-making, a statement as to whether domestic violence has occurred, and the extent of any such violence; and

~~(8)~~(9) for a paternity or maternity action, the identities of the natural mother and father and anyone who has lawful status as a parent or custodian of a child, including the court case conferring that status if it is not the current case.

(f) –(g) [No change]

¹ Additions to the text of a rule are shown by underscoring and deletions of text are shown by ~~strike-through~~.

Rule 45. Consent Decree, Judgment, or Order

(a)-(b) [No change]

(c) When Children Are Involved. When the parties have children in common or a party is pregnant with a child common to the parties, the consent decree, judgment, or order must include the following:

(1) provisions for legal decision-making and parenting time, either within the consent decree or by a separate parenting plan;

(2) an “Education Order” substantially in conformity with Rule 97, Form 19 or Form 20, as appropriate;

~~(2)~~(3) a child support order supported by a child support worksheet, but if a party requests any deviation in the child support amount, the consent decree or child support order must state the basis for deviation under the child support guidelines;

~~(3)~~(4) if either party is receiving Temporary Assistance for Needy Families (TANF) or services from the Title IV-D program, the parties must attach to the consent decree the written approval of the Attorney General or county attorney;

~~(4)~~(5) copies of each parent's Certificate of Completion of the Parent Information Program, if not previously filed with the court;

~~(5)~~(6) a completed income withholding order, including the current employer information sheet;

~~(6)~~(7) if the parties are requesting joint legal decision-making, a statement as to whether domestic violence has occurred, and the extent of any such violence; and

~~(7)~~(8) for a paternity or maternity action, the identities of the natural mother and father and anyone who has lawful status as a parent or custodian of a child, including the court case conferring that status if it is not the current case.

* * *

Rule 78(g). Judgment, Attorney Fees, Costs, and Expenses.

(a)-(f) [No change]

(g) Entering Judgment.

(1) *Written Document.* All judgments must be in writing and signed by a judge or a court commissioner duly authorized to do so. When the parties have children in common, the judgment must include an “Education Order” substantially in conformity with Rule 97, Form 19 or Form 20, as appropriate;

(2) [No change]

(h)-(i) [No change]

* * *

Rule 91.3. Post-Judgment Petition to Modify Legal Decision Making or Parenting Time; Education Order

(a) Generally. A petition for modification of legal decision-making or parenting time:

(1) must comply with Rule 91;

(2) must contain detailed facts supporting the modification;

(3) must be verified by the applicant or supported by affidavit(s) as required by A.R.S. § 25-411; and

(4) in actions in which the legal decision-making order or decree was not entered by an Arizona court, must include an affidavit required under A.R.S. § 25-1039.

(b) Service. In addition to complying with Rule 91(j), the applicant must comply with A.R.S. § 25-1035

(c) Education Order. Any order granting modification issued under this rule must include an “Education Order” substantially in conformity with Rule 97, Form 19 or Form 20, as appropriate.

ATTACHMENT B

Rule 97, Rules of Family Law Procedure

Form 19. Joint Legal Decision-Making Education Order

In re the Matter of:

Petitioner/Parent A

v.

Respondent/Parent B

CASE NO. _____

**JOINT LEGAL DECISION-MAKING
EDUCATION ORDER**

THE COURT FINDS AS FOLLOWS:

1. The parties have the following minor child(ren) (hereinafter "minor child(ren)"):

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

2. An Order regarding legal decision-making and/or parenting time was entered by this Court on _____ in the best interests of the minor child(ren).

3. It furthers the best interests of the minor child(ren) for this Court to enter the following school-specific order that reflects relevant provisions under the court-ordered parenting plan. This order serves to supplement, but not modify or replace, the provisions set forth in the court-ordered parenting plan. For the purpose of this order, the terms shall apply equally to schools, pre-schools, and institutional childcare providers.

4. It is a stated goal of the Court to eliminate or at least reduce the involvement of school officials and teachers in disputes between the parents, and the terms herein are designed to meet that objective.

Based thereon,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Binding Upon Parties:

This order is binding upon the parents, who are responsible for complying with its terms and the terms in the parenting plan. It is not binding on a school but is provided as guidance for a school.

2. Delivery to School:

The parents are required to provide a copy of this order to the child(ren)'s school(s).

3. Legal Decision-Making:

As it relates to education and/or school issues for the minor child(ren), legal decision-making in the best interests of the minor child(ren) is as follows:

Joint legal decision-making authority with neither parent entitled to any greater decision-making authority.

Joint legal decision-making authority with _____ entitled to presumptive decision-making authority in the event of a disagreement between the parties after a good faith effort to resolve the issue.

Joint legal decision-making with _____ entitled to final decision-making authority in the event of a disagreement between the parties after a good faith effort to resolve the issue.

4. Parenting Time and Child Pick-Up:

The Parenting Plan ordered by the court designates each parent's time with the child(ren). The parents are expected to abide by that schedule, unless otherwise agreed. That schedule is not binding on the school. Therefore, the school should not use the parenting schedule as a basis to deny either parent access to their child(ren) nor shall either parent instruct the school to limit contact, unless otherwise ordered.

Each parent may designate other individuals who are authorized to pick up the child(ren). In the event of a dispute between the parties as to any such individuals, the persons designated by either parent shall remain authorized to pick up the child(ren) until the parties reach an agreement or secure a court order to the contrary.

-or-

The following listed individuals are not permitted to pick-up the minor child(ren) from school without written consent of

Other:

5. Contact Information and Emergencies:

Each parent's home address, e-mail, cell phone and any other contact information shall be provided to the school and listed by the school as the contact information for the child(ren). Both

parents shall be listed as the first two emergency contacts. Additional contacts may be listed but in the event of a dispute between the parties, the school shall list any person requested by either party until the parties reach an agreement or secure a court order to the contrary.

The school may contact either parent about the child(ren), and it may contact any of the listed individuals in an emergency if neither parent can be reached. In the event of an emergency, either parent may make decisions for a child(ren)'s immediate care.

-or-

Other:

6. Access to School Grounds:

Subject to the policies of the school, there are no restrictions on either parent's right to participate in any school activities or events at which parents are generally permitted to attend.

Both parents are entitled to equal access to school grounds, including, without limitation, attending a child(ren)'s events or activities, volunteering in the classroom and/or school events, attending lunch, or volunteering in the classroom or for field trips in the same fashion as all other parents who have children enrolled at the school. Neither parent may limit the other parent's ability to enter school grounds or participate in school activities without a court order to the contrary.

Each parent may authorize others to attend school-related events or activities unless restricted by order of the court.

-or-

The following listed individuals are not permitted on school grounds, to attend field trips, or to otherwise participate in in-person school activities to pick-up the minor children from school without written consent of

Other:

7. Extra-Curricular Activities

Each parent is authorized to sign consent forms for the child(ren) to participate in extra-curricular activities. In the event the parents disagree about the child(ren)'s involvement in such activities, the issue shall be addressed in accordance with the legal decision-making authority determined by the court. If neither parent has superior decision-making authority, the burden shall be on the parents, and not the schools, to resolve the issue through agreement or order of the court consistent with the legal decision-making orders entered by the court.

-or-

It is anticipated that the child(ren) will participate in extra-curricular activities. If there is a disagreement between the parties, only _____ has the authority to sign any permission slip or authorization.

8. Access to School Records and Parent Portal:

Both parents are entitled to equal access to the child(ren)'s school records. Neither parent may restrict the other parent's access to information. Further, each parent shall be individually responsible for contacting the school and requesting to be included on any mailing or distribution list.

-or-

The following persons are not permitted access to the child(ren)'s school records and are NOT entitled to receive information from the school or be made part of any mailing or distribution list

Other:

Both parents are entitled to access the school's student information system or online parent portal(s) (e.g. ParentVUE, Google Classroom, Infinite Campus etc.). Unless the school allows each parent to have an individual login account, the parents shall create a joint login ID and password, which shall not be changed or modified without the consent of the other parent.

-Or-

The following persons are not permitted access to the school's online parent portal(s)

Other:

9. Parent-Teacher Conferences:

Each of the parents shall have the equal right to confer with teachers and counselors concerning a child's education and other activities. For regularly-scheduled parent-teacher conferences (e.g. the conference days established on the school calendar), the parents may attend jointly. Any request for separate conferences shall be addressed in the sole discretion of the school and may or may not be accommodated. The school may, in its discretion, require the parents to attend separate conferences or require one or both of the parents to participate through a virtual platform if joint attendance is disruptive or not productive.

-Or-

The following persons shall not confer with the teacher or school official and is not authorized to attend any parent-teacher conferences, whether individually or jointly with the other group:

10. Curriculum and Instruction Disputes:

In the event there is a disagreement between the parties as to the child(ren)'s involvement in any specific curricular activities, the subject matter being taught by the school (including books associated with the school curriculum), or the method of instruction, the issue shall be decided consistent with the legal decision-making authority assigned by court order. If neither parent has superior decision-making authority, the school shall implement its standard curriculum and method of instruction until such time that the parties reach an agreement or secure a court order.

11. Special Services:

If the child(ren) is eligible for or being considered for a 504 Plan, an Individualized Education Program (IEP), an Individualized Service Plan (ISP), or other special services, both parents are entitled to attend all meeting with school officials in which parents are permitted to attend and are authorized to have access to all records and testing results. If one parent receives notice of a meeting, that parent shall provide that same notice via e-mail or text to the other parent within 24 hours of receipt of the meeting notice.

Whether initiated by the school or either parent, absent any decision-making authority assigned to one parent, an evaluation as to the child(ren)'s eligibility for special services shall proceed so long as at least one parent consents. Upon completion of any evaluations or assessments and a Multi-Disciplinary Evaluation Team (MET) determination of eligibility, the parents, along with the school officials, shall confer regarding consent for the initial provision of special education and related special services. If there is no agreement between the parties, and absent any decision-making authority assigned to one parent, the issue shall be decided in accordance with the legal decision-making orders of the court.

If there is an Individualized Health Plan (IHP) for the child(ren), both parents shall cooperate with the implementation of the plan. In the event of a disagreement between the parents and absent any decision-making authority assigned to one parent, the IHP shall be implemented until the contesting parent secures a court order to the contrary.

12. School Selection:

Agreements between the parties as to school selection are not binding on the school or school district. Enrollment of a child in a particular school is subject to the school's policies or rules, space availability, enrollment restrictions set by the school or school district or its authorizer (if a charter school), and state law. If the parties anticipate a dispute as to school selection, each party may submit enrollment documentation to the school of choice solely for the purpose of reserving the child(ren)'s place at the school in the event that parent's choice becomes the selected school. Parents shall not enroll their child(ren) in two different schools as presumptive full-time students, with each parent taking the children) to a different school during that parent's parenting time.

In the event an issue arises regarding a change in schools for the child(ren),

- (a) absent an agreement between the parties, the determination shall be decided as directed by the court. Until there is an agreement, no change shall be made to the child(ren)'s current school attendance.
- (b) _____ shall have authority to decide the school choice, subject to the other parent securing a court order to the contrary.

13. Future Litigation:

In the event of any future modification or enforcement proceeding regarding parenting-related issues, involvement of the child(ren)'s school and its officials should be kept to a minimum. The parties shall put forth best efforts to agree upon the admission of school records or communications without

the need for foundational testimony or shall agree upon the submission of an affidavit from the custodian of records to authenticate the records in lieu of testimony, whenever possible.

If a teacher or school official is required for substantive testimony, the scheduling of such testimony shall, when possible, be set at a time that is least disruptive to the school, its other students, and its operations. Such witnesses may be taken out of order to accommodate this goal. Further, assuming the court can accommodate virtual appearances by the teacher or school official, it shall be assumed that the witness shall be permitted to appear through a remote or virtual platform in lieu of a personal appearance. If either party believes that a personal appearance for testimony is required, that party shall seek leave of the court as much in advance of the scheduled proceeding as is possible for requiring a personal appearance.

14. Additional Orders:

Signed this _____ day of _____ 20__

By: _____

Judicial Officer
Superior Court of

ORIGINAL of the foregoing e-filed

this ___ day of ____, 20__ with:

Clerk of Court

COPY of the foregoing e-mailed/mailed

this ___ day of _____, 20__ to:

Form 20. Sole Legal Decision-Making Education Order

In re the Matter of:

Petitioner/Parent A

v.

Respondent/Parent B

CASE NO. _____

**SOLE LEGAL DECISION-MAKING
EDUCATION ORDER**

THE COURT FINDS AS FOLLOWS:

1. The parties have the following minor child(ren) (hereinafter "minor child(ren)"):

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

Name: _____ Born: _____

2. An Order regarding legal decision-making and/or parenting time was entered by this Court on _____ in the best interests of the minor child(ren).

3. It furthers the best interests of the minor child(ren) for this Court to enter the following school-specific order that reflects relevant provisions under the court-ordered parenting plan. This order serves to supplement, but not modify or replace, the provisions set forth in the court-ordered parenting plan. For the purpose of this order, the terms shall apply equally to schools, pre-schools, and institutional childcare providers.

4. It is a stated goal of the Court to eliminate or at least reduce the involvement of school officials and teachers in disputes between the parents, and the terms herein are designed to meet that objective.

Based thereon,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Binding Upon Parties:

This order is binding upon the parents, who are responsible for complying with its terms and the terms in the parenting plan. It is not binding on a school but is provided as guidance for a school.

2. Delivery to School:

The parents are required to provide a copy of this order to the child(ren)'s school(s).

3. Legal Decision-Making:

As it relates to education and/or school issues for the minor child(ren), legal decision-making in the best interests of the minor child(ren), _____ has sole legal decision-making authority in the event of a dispute between the parents. Such sole authority is subject to the terms set forth herein.

4. Parenting Time and Child Pick-Up:

The Parenting Plan ordered by the court designates each parent's time with the child(ren). The parents are expected to abide by that schedule, unless otherwise agreed. That schedule is not binding on the school. Therefore, the school should not use the parenting schedule as a basis to deny either parent access to their child(ren) nor shall either parent instruct the school to limit contact, unless otherwise ordered.

Each parent may designate other individuals who are authorized to pick up the child(ren). In the event of a dispute between the parties as to any such individuals, the persons designated by either parent shall remain authorized to pick up the child(ren) until the parties reach an agreement or secure a court order to the contrary.

-or-

The following listed individuals are not permitted to pick-up the minor child(ren) from school without written consent of

Other:

5. Contact Information and Emergencies:

Each parent's home address, e-mail, cell phone and any other contact information shall be provided to the school and listed by the school as the contact information for the child(ren). Both parents shall be listed as the first two emergency contacts. Additional contacts may be listed but in the event of a dispute between the parties, the school shall list any person requested by either party until the parties reach an agreement or secure a court order to the contrary.

The school may contact either parent about the child(ren), and it may contact any of the listed individuals in an emergency if neither parent can be reached. In the event of an emergency, either parent may make decisions for a child(ren)'s immediate care.

-or-

Other:

6. Access to School Grounds:

Subject to the policies of the school, there are no restrictions on either parent's right to participate in any school activities or events at which parents are generally permitted to attend.

Both parents are entitled to equal access to school grounds, including, without limitation, attending a child's events or activities, volunteering in the classroom and/or school events, attending lunch, or volunteering in the classroom or for field trips in the same fashion as all other parents who have children enrolled at the school. Neither parent may limit the other parent's ability to enter school grounds or participate in school activities without a court order to the contrary.

-or-

The following listed individuals are not permitted on school grounds, to attend field trips, or to otherwise participate in in-person school activities to pick-up the minor children from school without written consent of

Other:

7. Extra-Curricular Activities

It is anticipated that the child(ren) will participate in extra-curricular activities. If there is a disagreement between the parties, only _____ has the authority to sign any permission slip or authorization.

8. Access to School Records and Parent Portal:

Both parents are entitled to equal access to the child(ren)'s school records. Neither parent may restrict the other parent's access to information. Further, each parent shall be individually responsible for contacting the school and requesting to be included on any mailing or distribution list.

-or-

The following persons are not permitted access to the child(ren)'s school records and are NOT entitled to receive information from the school or be made part of any mailing or distribution list

Other:

Both parents are entitled to access the school's student information system or online parent portal(s) (e.g. ParentVUE, Google Classroom, Infinite Campus etc.). Unless the school allows each parent to have an individual login account, the parents shall create a joint login ID and password, which shall not be changed or modified without the consent of the other parent.

-or-

The following persons are not permitted access to the school's online parent portal(s)

Other:

9. Parent-Teacher Conferences:

Each parent has the right to confer with teachers and counselors concerning a child’s education and other activities. For regularly-scheduled parent-teacher conferences (e.g. the conference days established on the school calendar), the parents may attend jointly. Any request for separate conferences shall be addressed in the sole discretion of the school and may or may not be accommodated. The school may, in its discretion, require the parents to attend separate conferences or require one or both of the parents to participate through a virtual platform if joint attendance is disruptive or not productive.

-or-

The following persons shall not confer with the teacher or school official and is not authorized to attend any parent-teacher conferences, whether individually or jointly with the other group:

10. Curriculum and Instruction Disputes:

In the event there is a disagreement between the parties as to the child(ren)’s involvement in any specific curricular activities, the subject matter being taught by the school (including books associated with the school curriculum), or the method of instruction, _____ shall have decision-making authority.

11. Special Services:

If the child(ren) is eligible for or being considered for a 504 Plan, an Individualized Education Program (IEP), an Individualized Service Plan (ISP), or other special services, both parents are entitled to attend all meeting with school officials in which parents are permitted to attend and are authorized to have access to all records and testing results. If one parent receives notice of a meeting, that parent shall provide that same notice via e-mail or text to the other parent within 24 hours of receipt of the meeting notice.

Whether initiated by the school or either parent, absent any decision-making authority assigned to one parent, an evaluation as to the child(ren)’s eligibility for special services shall proceed so long as at least one parent consents. Upon completion of any evaluations or assessments and a Multi-Disciplinary Evaluation Team (MET) determination of eligibility, the parents, along with the school officials, shall confer regarding consent for the initial provision of special education and related special services. If there is no agreement between the parties, and absent any decision-making authority assigned to one parent, the issue shall be decided in accordance with the legal decision-making orders of the court.

12. School Selection:

Agreements between the parties as to school selection are not binding on the school or school district. Enrollment of a child in a particular school is subject to the school’s policies or rules, space availability, enrollment restrictions set by the school or school district or its authorizer (if a charter school), and state law. In the event an issue arises regarding a change in schools for the child(ren), _____ shall have authority to decide the school choice. Parents shall not enroll their child(ren) in

two different schools as presumptive full-time students, with each parent taking the children) to a different school during that parent’s parenting time.

13. Future Litigation:

In the event of any future modification or enforcement proceeding regarding parenting-related issues, involvement of the child(ren)’s school and its officials should be kept to a minimum. The parties shall put forth best efforts to agree upon the admission of school records or communications without the need for foundational testimony or shall agree upon the submission of an affidavit from the custodian of records to authenticate the records in lieu of testimony, whenever possible.

If a teacher or school official is required for substantive testimony, the scheduling of such testimony shall, when possible, be set at a time that is least disruptive to the school, its other students, and its operations. Such witnesses may be taken out of order to accommodate this goal. Further, assuming the court can accommodate virtual appearances by the teacher or school official, it shall be assumed that the witness shall be permitted to appear through a remote or virtual platform in lieu of a personal appearance. If either party believes that a personal appearance for testimony is required, that party shall seek leave of the court as much in advance of the scheduled proceeding as is possible for requiring a personal appearance.

14. Additional Orders:

Signed this _____ day of _____ 20____

By: _____
Judicial Officer
Superior Court of

ORIGINAL of the foregoing e-filed

this ___ day of ____, 20__ with:

Clerk of Court

COPY of the foregoing e-mailed/mailed

this ___ day of _____, 20__ to: