

Judge Randi Burnett  
Presiding Judge, Family Law Bench  
Superior Court of Arizona in Pima County  
110 West Congress Street  
Tucson, AZ 85701

Judge Ronda Fisk  
Presiding Judge, Family Department  
Superior Court of Arizona in Maricopa County  
201 W Jefferson Street  
Phoenix, AZ 85003

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

In the Matter of:	)	Supreme Court
	)	No. R-23-007
PETITION TO AMEND RULES 44.1(c),	)	
45(c), 78(g) AND 91.3, ARIZONA	)	<b>COMMENT</b>
RULES OF FAMILY LAW PROCEDURE	)	

The undersigned Arizona Superior Court Judicial Officers in Maricopa County and Pima County submit this comment pursuant to Rule 28, Arizona Rules of the Supreme Court, regarding R-23-0007, which proposes to amend Rules 44.1(c), 45(c), 78(g), and 91.3 to require the entry of an “Education Order” when entering any final order involving children.

On August 24, 2023, this Court adopted amendments to various rules as well as Forms 19 and 20 to Rule 97, Arizona Rules of Family Law Procedure, on an emergency basis. It further opened the matter for additional public comment.

With the benefit of insight gained from the emergency implementation of the amended rules and Forms 19 and 20, the undersigned respectfully request that the Court adopt the attached modified versions of Forms 19 (Attachment A) and 20 (Attachment B) of Rule 97 of the Rules of Family Law Procedure for the reasons stated below.

Forms 19 and 20 were adopted to provide standardized forms of order for parties and judicial officers throughout the state to use when entering an Education Order whenever final legal decision-making or parenting time orders were entered. We agree that standardized Education

Order forms are necessary if R-23-0007 is to be adopted on a permanent basis.<sup>1</sup> However, we believe Forms 19 and 20 need to be revised because they contain superfluous language, need to be more narrowly tailored to comply with the law, and need to be standardized forms that can be efficiently used by parents, judicial officers, and educational institutions.

Many members of the Maricopa County and Pima County Superior Court family benches expressed concerns in December 2023 about the effect the Education Order requirement was going to have on the workload of the judicial officers on the family bench. Currently, judicial officers on the family bench are tasked with making numerous, statutorily-required, written findings whenever a final legal decision-making or parenting time order is issued. For example, in a relocation case the judicial officer must make a combined total of 18 written findings as required by A.R.S. §§ 25-403 and 25-408. This task can often be quite time-consuming. A judicial officer's available time to write the required customized findings is limited and must be balanced with the need to provide families with timely hearings. Current Forms 19 and 20 require the judicial officer to review every paragraph on each form and to select the correct checkbox that applies to the family. The concern voiced by our judicial officers was that the Education Order requirement would require additional time that most judicial officers simply do not have available.

In December 2023, Judge Bruce Cohen and Judge Ronda Fisk of the Maricopa County Superior Court met with Judge Greg Sakall and Judge Randi Burnett of the Pima County Superior Court to discuss concerns regarding the breadth and usability of Forms 19 and 20. Judge Cohen, who authored the petition to require education orders, agreed that Forms 19 and 20 would benefit from some revision and simplification. Together, the four judges worked to remove any unnecessary or confusing language from the forms, and to create two standardized forms that require very little additional customization by the judicial officer, lawyer, or self-represented litigant after the caption has been completed. The revisions the four judges made to the forms focused on remedying the following issues:

1. *Removing Superfluous Language.* The current forms include language that is simply not necessary information. The intended end users of the Education Order are the child's school and the child's parents. The shorter and more readable the Education Order is the more effective it is in assisting the end users. Removing superfluous language is necessary to increase the readability of

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<sup>1</sup> We are aware that other commenters have advocated for the repeal of rule amendments which were adopted on an emergency basis. We take no position in this comment on that issue.

the Education Orders. The revisions made to both forms successfully shortened each form significantly.

2. *Removing Overly Broad Statements.* The current forms contain language that is overly broad and likely exceeds the court's authority. The current forms contain several orders or statements regarding what shall or must be done in certain situations even when it would not be up to the court on how to proceed with the issue. A good example of this issue is present in paragraph 11—special services—found in both forms. Form 19 contains the following order: “[u]pon completion of any evaluations or assessments and a Multi-Disciplinary Evaluation Team (MET) determination of eligibility, the parents, along with school officials, shall confer regarding consent for the initial provision of special education and related special services.” The family court does not have jurisdiction to order the school to take any specific step as the school is not a party to the litigation in which the Education Order was issued. Removal of this type of overly broad language is necessary to avoid creating unrealistic expectations for parents or directives for schools that they are not required to follow.

3. *Minimizing Customization.* Currently, Forms 19 and 20 require a self-represented litigant or a judicial officer to review the entire order and select checkboxes for almost all of the fourteen different sections to determine what specific terms apply to each case. This is contrary to the stated desire in the Petition to create forms that contained generally applicable terms that required minimal customization.

A further concern is that a large percentage of the Education Orders must be completed by self-represented litigants when preparing default decrees and consent decrees, judgments, and orders. The more complicated the forms, the more difficult they are for self-represented litigants to complete. In addition, the more customized the Education Orders are, the more likely they are to conflict with the separately filed Parenting Plan. Minimizing customization expedites judicial review and the processing of default and consent decrees.

As noted above, requiring this level of customization also needlessly increases the judicial officer's workload. This level of customization also produces an order that will vary from family to family even when the parents in those cases were all awarded joint legal decision-making authority. Schools should not be placed in a position where they need to consult education orders constantly for similarly situated parents because each family's Education Order is nuanced. If there are to be mandatory, standardized Education Orders, they should contain universal terms that apply in all

joint or sole legal decision-making situations. Any additional customization of educational terms needed should be handled in the parties' formal parenting plan. The revised Forms 19 and 20 contain language indicating that it is the parents' obligation to provide the school with a copy of the formal parenting plan if it contains unusual or customized terms. Removing any language from the forms that does not qualify as a generally applicable term helps streamline how schools will use and interpret Education Orders going forward. Instead of having to determine what terms apply in fourteen different categories, schools can rely on the applicable universal terms depending on whether joint or sole legal decision-making was awarded.

If R-23-0007 is approved by this Court on a permanent basis, we respectfully request that the attached revised Forms 19 and 20 be adopted for the reasons stated above. The attached revised forms require far less work and interpretation for parents, educational institutions, and judicial officers. They increase readability, increase efficiency, and provide universal rules that apply to parents in both joint and sole legal decision-making situations.

RESPECTFULLY SUBMITTED this 30th day of April 2024.

*Randi Burnett*

HON. RANDI BURNETT  
Superior Court of Arizona- Pima County

*Ronda Fisk*

HON. RONDA FISK  
Superior Court of Arizona- Maricopa County