**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

|  |  |
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|  | 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.

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|  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_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.]