

**RULE L1915.4-1. ALTERNATIVE HEARING PROCEDURES FOR CUSTODY, PARTIAL CUSTODY OR VISITATION ACTION.**

(1) Mediation.

Except as provided for in Pa.R.C.P.1915.4-1, a conference before a Court appointed Custody Mediator shall be held in all cases involving claims for custody, partial custody or visitation.

(2) Purpose.

The parties, with the aid and assistance of the mediator, shall make a good faith effort to resolve the issues and reach an amicable agreement of their differences that meets the best interest of the child(ren).

(3) Deposit.

Before a custody mediator is appointed, the moving party shall pay to the Prothonotary a sum of \$200 (or in some other amount established by the court) as a deposit for payment of the custody mediator's fees and costs unless the moving party has been granted leave to proceed *informa pauperis* in accordance with Pa.R.C.P.240. The Custody Mediator or the Court will allocate fees and costs among the parties upon the entry of a custody, partial custody or visitation order.

(4) Mediators.

The position of child custody mediator is hereby established. The mediators shall be appointed by the Court and shall be members of the Bar. They shall conduct mediation conferences at such times and places as they direct; may recommend counseling and conduct oral examination of the child(ren) who is (are) the subject(s) of the action, including private interviews during a conference; may request investigative reports from social service agencies, psychological and psychiatric evaluations, or other reports deemed necessary; shall encourage and supervise the formulation of consent orders; and shall submit to the Court a recommended order along with a memorandum which shall include an analysis of the record as a whole and the reasons for the proposed order.

(5) Custody Questionnaire. Exhibit 1915.4-1(a).

In addition to the notice sent to the parties as set forth in Cra.R.C.P.1915.4-1(7), the custody mediator shall mail a questionnaire, substantially in the form provided hereafter, to the

parties with instructions to bring the completed questionnaire to the conference.

The custody mediator shall permit counsel for the parties or the parties themselves to review the other parties' completed questionnaires at the conference. Counsel shall provide copies of their client's questionnaire to opposing counsel or the other parent at the conference.

(6) Conference.

The mediator shall schedule a conference with the parties within thirty (30) days from appointment.

(7) Notice. Attendance at Conference.

Once the mediator sets a date for the conference, the mediator shall serve a notice in the form set forth above on each party. Notice of the mediation conference shall be sent to the parties by first class United States mail, postage prepaid, addressed to said party's last known address, or by any other method by which service of original process is permitted by the Rules of Civil Procedure. The notice provided herein shall not relieve the moving party from the responsibility to serve appropriate process on the responding party.

If the party seeking relief fails to appear at the mediation conference without proper cause shown and the mediator is satisfied that proper notice fixing the conference has been given to that party, the mediator may recommend to the Court that an order be entered dismissing the claim including a recommendation regarding the costs, or hold a conference and submit a recommended order.

If a responding party fails to appear at the mediation conference, without proper cause shown, and the mediator is satisfied that proper notice fixing the conference was given to that party, the mediator shall proceed to conduct a conference and submit a memorandum and recommended order to be entered by the Court.

(8) Out of State Proceedings.

In order to facilitate compliance with the requirements of the Uniform Child Custody Jurisdiction and Enforcement Act, a party shall provide the Court with all known information concerning a custody proceeding pending or held within the past twelve (12) months in another state which involves the same parties or children.

(9) Report and Recommendations.

The mediator shall submit a report to the Court setting forth the

positions and proposals of the parties, together with the mediator's recommendation, the basis therefore, and a proposed order. The mediator shall comply with Pa.R.C.P. 1915.4(d). The mediator shall also submit a copy of the proposed order to each of the parties or their counsel. The mediator will also recommend an allocation of any fees or costs incurred by the mediator. The parties are bound to the recommendations unless and until modified by further Court order.

(10) Order.

The Court may enter an appropriate order after consideration of the report and recommendations of the mediator. After the Court enters its order, a copy thereof shall be delivered to counsel for represented parties and to unrepresented parties by the Court Administrator or the Prothonotary addressed to the address they give the mediator or, if they fail to appear at the mediation conference, to their last known address.

(11) Hearing De Novo. Exhibit 1915.4-1(b).

The order entered by the Court shall become a final order within twenty (20) days from the date of the entry of the order unless a party files a written demand for a de novo hearing with the Court. The written demand for de novo hearing shall be in substantially the form set forth below and shall be filed with the Prothonotary who shall time stamp the demand and forward it to the Court Administrator for a hearing date. A demand for a de novo hearing shall not stay the order entered by the Court until after the de novo hearing unless the Court so directs.

(12) Request for De Novo Hearing Withdrawn.

When a party files a timely demand for hearing de novo and later on withdraws that request, there shall be no hearing de novo and the order entered by the Court shall become final at the time the request for de novo hearing is withdrawn.

(13) Settlement.

If the parties enter into an amicable settlement after a mediator has been appointed, one or both of the parties shall notify the mediator of the settlement before submitting the settlement to the Court. Upon receiving notification of settlement, the mediator shall cease all work on the matter and shall immediately submit a bill if the mediator has incurred expenses or devoted time in the matter to that point. Any motion or petition filed with the Court to seek approval of a custody agreement shall include a statement as to whether or not a mediator was appointed, and if a mediator was appointed, the name

of the mediator, together with a certification or representation that the mediator was notified of the settlement, and the date notice was given to the mediator. No custody agreement shall be approved by the Court until all costs are paid.

(14) Pretrial Child Custody Conference.

The Court may enter an order requiring all parties and counsel to appear at a pretrial child custody conference where there has been a request for de novo hearing before the Court.

(a) Attendance.

Each party and counsel for every party shall attend the pretrial conference.

(b) Preparation.

At least two (2) business days before the conference counsel and parties who do not have counsel shall file a pretrial memorandum containing:

- (i) A concise statement of the issues;
- (ii) A proposed resolution;
- (iii) A list of any contempt issues;
- (iv) A list of fact and expert witnesses with their addresses and a concise statement of their proposed testimony;
- (v) A list of exhibits;
- (vi) A statement of stipulations desired; and
- (vii) A statement of any requests such as special time for witnesses, amount of time the hearing should take, etc.