

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE

RECOMMENDATION 73

Rule 1910.11. Office Conference. Subsequent Proceedings. Order.

(a) (1) The office conference shall be conducted by a conference officer.

(2) A conference officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, permanent hearing officer or permanent or standing master employed by the same judicial district.

Official Note

Conference officers preside at office conferences under **[Support]** Rule 1910.11. Hearing officers preside at hearings under **[Support]** Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by **[Divorce]** Rule 1920.51.

(b) If the defendant fails to appear at the conference before the officer as directed by the court, the conference may proceed without the defendant.

(c) At the conference, the parties shall furnish to the officer true copies of their most recent federal income tax returns, their pay stubs for the preceding six months, verification of child care expenses and proof of medical coverage which they may have or have available to them. In addition, they shall provide copies of their income and expense statements in the form required by Rule 1910.27(c), completed as set forth below.

(1) For cases which can be determined according to the guideline formula, the income and expense statement need show only income and extraordinary expenses.

(2) For cases which are decided according to *Melzer v. Witsberger*, 505 Pa. 462, 480 A.2d 991 (1984), the entire income and expense statement must be completed.

(d) The conference officer may make a recommendation to the parties of an amount of support which is calculated in accordance with the guidelines. If an agreement for support is reached at the conference, the officer shall prepare a written order substantially in the form set forth in Rule 1910.27(e) and in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter the order in accordance with the agreement without hearing the parties.

(e) At the conclusion of the conference or promptly thereafter, the conference officer shall prepare a conference summary and furnish copies to the court and to both parties. The conference summary shall state:

(1) the facts upon which the parties agree[.];

(2) the contentions of the parties with respect to facts upon which they disagree[.]; and

(3) the conference officer's recommendation[.]; if any, of

(i) the amount of support and by and for whom the support shall be paid[.]; and

(ii) the effective date of any order.

(f) If an agreement for support is not reached at the conference, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). **[The order shall state] Each party shall be provided, either in person at the time of the conference or by mail, with a copy of the interim order and written notice that any party may, within [ten] twenty days after the date of receipt or the date of the mailing of [a copy of] the interim order, whichever occurs first, file a written demand with the domestic relations section for a hearing before the court.**

(g) A demand for a hearing before the court shall not stay the interim order entered under subdivision (f) unless the court so directs.

(h) If no party demands a hearing before the court within the **[ten] twenty** day period, the interim order shall constitute a final order.

(i) If a demand is filed, there shall be a hearing de novo before the court. The domestic relations section shall schedule the hearing and give notice to the parties. The court shall hear the case and enter a final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the written demand for hearing.

(j) (1) Promptly after receipt of the notice of the scheduled hearing, a party may move the court for a separate listing where:

(i) there are complex questions of law, fact or both[,] or

(ii) the hearing will be protracted[,] or

(iii) the orderly administration of justice requires that the hearing be listed separately.

(2) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note

The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(k) No motion for post-trial relief may be filed to the final order of support.

Explanatory Comment--1995

Rule 1910.11(e) is amended to eliminate the need for a party to request a copy of the conference summary.

In conformity with the amendment of Pa. R.C.P. 236, subdivision (f) is amended to require that the parties be served with a copy of the order, rather than notice that it has been filed. In addition, subdivision (f) is amended to require the court to enter an interim order on the basis of the conference summary, expediting the commencement of support payments. The language of subdivisions (g) and (i) is also changed to conform with the amended language of subdivision (f).

Because the court is required to enter a guideline order on the basis of the conference officer's recommendation, there is no need for (g)(2), which provided for a hearing before the court where an order was not entered within five days of the conference. It is eliminated accordingly.

Pursuant to subdivision (g), support payments are due and owing under the interim order which continues in effect until the court enters a final order after the hearing de novo. The provision for an interim order serves two purposes. First, it ensures that the obligee will receive needed support for the period during which the judicial determination is sought. Second, it eliminates the motive in delay in seeking a judicial determination. Therefore, the plaintiff and the dependent children are not prejudiced by allowing the court sixty days, rather than the original forty-five, in which to enter its final order.

Explanatory Comment--2006

The time for filing a written demand for a hearing before the court has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Rule 1910.12. Office Conference. Hearing. Record. Exceptions. Order.

(a) There shall be an office conference as provided by Rule 1910.11(a) through (d).

(b) (1) At the conclusion of a conference attended by both parties, if an agreement for support has not been reached, and the conference and hearing are not scheduled on the same day, the court, without hearing the parties, shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e), and the parties shall be given notice of the date, time and place of a hearing. A record hearing shall be conducted by a hearing officer who must be a lawyer.

(2) If the defendant, having been properly served, fails to attend the conference, the court shall enter an interim order calculated in accordance with the guidelines and substantially in the form set forth in Rule 1910.27(e). Within **[ten] twenty** days after the date of receipt or the date of mailing of the interim order, whichever occurs first, either party may demand a hearing before a hearing officer. If no hearing is requested, the order shall become final.

(3) A hearing officer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.

Official Note

Conference officers preside at office conferences under **[Support]** Rule 1910.11. Hearing officers preside at hearings under **[Support]** Rule 1910.12. The appointment of masters to hear actions in divorce or for annulment of marriage is authorized by **[Divorce]** Rule 1920.51.

(c) (1) Except as provided in subdivision (c)(2), promptly after conclusion of the conference, a party may move the court for a separate listing of the hearing where:

(i) there are complex questions of law, fact or both~~[,]~~or

(ii) the hearing will be protracted[.];or

(iii) the orderly administration of justice requires that the hearing be listed separately.

(2) Where the conference and hearing are scheduled on the same day, all requests for separate listing must be presented to the court at least seven days prior to the scheduled court date.

(3) If the motion for separate listing is granted, discovery shall be available in accordance with Rule 4001 et seq.

Official Note

The rule relating to discovery in domestic relations matters generally is Rule 1930.5.

(d) The hearing officer shall receive evidence, hear argument and file with the court a report containing a recommendation with respect to the entry of an order of support. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order substantially in the form set forth in Rule 1910.27(e) stating:

(1) the amount of support calculated in accordance with the guidelines[.];

(2) by and for whom it shall be paid[.];and

(3) the effective date of the order.

A copy of the report shall be furnished to all parties at the conclusion of the hearing.

(e) The court, without hearing the parties, shall enter an interim order consistent with the proposed order of the hearing officer. [The order shall state] Each party shall be provided, either in person at the time of the hearing or by mail, with a copy of the interim order and written notice that any party may, within **[ten] twenty** days after the date of receipt or the date of mailing of the order, whichever occurs first, file with the domestic relations section written exceptions to **[that] the report of the hearing officer and interim order. [with the domestic relations section.]**

Official Note: Objections to the entry of an interim order consistent with the proposed order may be addressed pursuant to Rule 1910.26.

(f) Within **[ten]** twenty days after the date of receipt or the date of mailing of the report by the hearing officer, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of facts, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are **[demand]** deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within **[ten]** twenty days of the date of service of the original exceptions.

(g) If no exceptions are filed within the **[ten]** twenty-day period, the interim order shall constitute a final order.

(h) If exceptions are filed, the interim order shall continue in effect. The court shall hear argument on the exceptions and enter an appropriate final order substantially in the form set forth in Rule 1910.27(e) within sixty days from the date of the filing of exceptions to the interim order. No motion for post-trial relief may be filed to the final order.

Explanatory Comment--1995

Language is added to subdivision (b) to acknowledge that the conference and hearing can be held on the same day, and to provide for the immediate entry of an interim order in judicial districts where the hearing occurs at a later date. New subdivision (b)(2) permits entry of a guideline order after a conference which the defendant, though properly served, fails to attend. New subdivision (c)(2) is intended to prevent delays in the hearing of complex cases by requiring that requests for separate listing be made at least seven days in advance where the conference and hearing are scheduled on the same day.

In addition, the phrase "record hearing" in subdivision (a) replaces the reference to a "stenographic record" in recognition of the variety of means available to create a reliable record of support proceedings.

Amended subdivision (e) allows an interim order to be entered and served on the parties at the conclusion of the hearing, rather than after the expiration of the exceptions period as was true under the old rule. In addition, the amended subdivision requires that the interim order include language advising the parties of their right to file exceptions within ten days of the date of the order.

Support payments are due and owing under the interim order which continues in effect until the court enters a final order after considering the parties' exceptions. Therefore, extension of the deadline for entering the final order by fifteen days does not prejudice the persons dependent upon payment of the support.

Explanatory Comment--2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

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Rule 1915.4-2. Office Conference. Hearing. Record. Exceptions. Order.

- (a) (1) The office conference shall be conducted by a conference officer.
- (2) The hearing shall be conducted by a hearing officer. A hearing officer who is a lawyer employed by a judicial district shall not practice family law before a conference officer, hearing officer or permanent or standing master employed by the same judicial district.
- (b) If the respondent fails to appear at the conference before the officer as directed by the court, the conference may proceed without the respondent.
- (c) The conference officer may make a recommendation to the parties relating to partial custody or visitation of the child or children. If an agreement for partial custody or visitation is reached at the conference, the conference officer shall prepare a written order in conformity with the agreement for signature by the parties and submission to the court together with the officer's recommendation for approval or disapproval. The court may enter an order in accordance with the agreement without hearing the parties.
- (d) At the conclusion of the conference if an agreement relating to partial custody or visitation has not been reached, the parties shall be given notice of the date, time and place of a hearing, which may be the same day, but in no event shall be more than **[45]** forty-five days from the date of the conference. The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony.
- (e) The hearing officer shall receive evidence and hear argument. The hearing officer may recommend to the court that the parties and/or the subject child or children submit to examination and evaluation by experts pursuant to Rule 1915.8.
- (f) Within **[10]** ten days of the conclusion of the hearing, the hearing officer shall file with the court and serve upon all parties a report containing a recommendation with respect to the entry of an order of partial custody or visitation. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order, including a specific schedule for partial custody or visitation.

(g) Within **[ten]** twenty days after the date **[of]** the hearing officer's report [by the hearing officer] is mailed or received by the parties, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within **[ten]** twenty days of the date of service of the original exceptions.

(h) If no exceptions are filed within the **[ten]** twenty-day period, the court shall review the report and, if approved, enter a final order.

(i) If exceptions are filed, the court shall hear argument on the exceptions within **[45]** forty-five days of the date the last party files exceptions, and enter an appropriate final order within **[15]** fifteen days of argument. No motion for Post-Trial Relief may be filed to the final order.

Explanatory Comment--1994

These new rules provide an optional procedure for using hearing officers in partial custody and visitation cases. The procedure is similar to the one provided for support cases in Rule 1910.12: a conference, record hearing before a hearing officer and argument on exceptions before a judge. The terms "conference officer" and "hearing officer" have the same meaning here as in the support rules.

It is important to note that use of the procedure prescribed in Rules 1915.4-1 and 1915.4-2 is optional rather than mandatory. Counties which prefer to have all partial custody and visitation cases heard by a judge may continue to do so.

These procedures are not intended to replace or prohibit the use of any form of mediation or conciliation. On the contrary, they are intended to be used in cases which are not resolved through the use of less adversarial means.

Explanatory Comment--2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the entry of the order, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

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Rule 1920.55-2. Master’s Report. Notice. Exceptions. Final Decree.

- (a) After conclusion of the hearing, the master shall:
- (1) file the record and the report within:
 - (i) twenty days in uncontested actions or[.];
 - (ii) thirty days after the receipt of the transcript by the master in contested actions[.]; and
 - (2) immediately serve upon counsel for each party, or, if unrepresented, upon the party, a copy of the report and recommendation and written notice of the right to file exceptions.
- (b) Within **[ten] twenty** days of the date of receipt or the date of mailing of the master’s report and recommendation, whichever occurs first, any party may file exceptions to the report or any part thereof, to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final decree, leave is granted to file exceptions raising those matters.
- (c) If exceptions are filed, any other party may file exceptions within **[ten] twenty** days of the date of service of the original exceptions. The court shall hear argument on the exceptions and enter a final decree.
- (d) If no exceptions are filed, the court shall review the report and, if approved, shall enter a final decree.
- (e) No Motion for Post-Trial Relief may be filed to the final decree.

Explanatory Comment--1995

The amendments create alternative procedures for appeal from the recommendation of a master in divorce. Rule 1920.55-1 states that, if the court chooses to appoint a master, the exceptions procedure set forth in Rule 1920[.]-55-2 will be used unless the court has, by local rule, adopted the alternative procedure of Rule 1920.55-3.

Explanatory Comment--2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of

the report and recommendation, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

Rule 1920.55-3. Master's Report. Notice. Hearing De Novo. Final Decree.

- (a) No record shall be made of the hearing in proceedings held pursuant to this rule.
- (b) After the conclusion of hearing, the master shall:
 - (1) file the report within:
 - (i) twenty days in uncontested actions or[.];
 - (ii) thirty days in contested actions[.]; and
 - (2) immediately serve upon counsel for each party, or, if unrepresented, upon the party, a copy of the report and recommendation, and written notice of the right to demand a hearing de novo.
- (c) Within **[ten] twenty** days **[after]** of the date the master's report is mailed or received, whichever occurs first, any party may file a written demand for a hearing de novo. If a demand is filed, the court shall hold a hearing de novo and enter a final decree.
- (d) If no demand for de novo hearing is filed within the [ten] twenty-day[s] period, [of the date the report is mailed,] the court shall review the report and recommendation and, if approved, shall enter a final decree.
- (e) No Motion for Post-Trial Relief may be filed to the final decree.

Explanatory Comment--1995

The amendments create alternative procedures for appeal from the recommendation of a master in divorce. Rule 1920.55-1 states that, if the court chooses to appoint a master, the exceptions procedure set forth in Rule 1920[.]55-2 will be used unless the court has, by local rule, adopted the alternative procedure of Rule 1920.55-3.

Explanatory Comment--2006

The time for filing exceptions has been expanded from ten to twenty days. The purpose of this amendment is to provide ample opportunity for litigants and counsel to receive notice of the report and recommendation, to assure commonwealth-wide consistency in calculation of time for filing and to conform to applicable general civil procedural rules.

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Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) *Persons Who May Serve.* Original process in all domestic relations matters may be served by the sheriff or a competent adult:

(1) by handing a copy to the defendant; or

(2) by handing a copy;

(i) at the residence of the defendant to an adult member of the family with whom the defendant resides; but if no adult member of the family is found, then to an adult person in charge of such residence; or

(ii) at the residence of the defendant to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the defendant resides; or

(iii) at any office or usual place of business of the defendant to the defendant's agent or to the person for the time being in charge thereof.

(3) or pursuant to special order of court.

Official Note

See Rule 76 for the definition of "competent adult." Service upon an incarcerated person in a domestic relations action must also include notice of any hearing in such action, and specific notice of the incarcerated individual's right to apply to the court for a writ of *habeas corpus ad testificandum* to enable him or her to participate in the hearing. The writ is available where an incarcerated individual wishes to testify as provided by statute or rule, as well as where the individual's testimony is sought by another. *Vanaman v. Cowgill*, 363 Pa. Super. Ct. 602, 526 A.2d 1226 (1987). See 23 Pa. C.S.A. §4342(j) and Rule 1930.3. In determining whether a writ of *habeas corpus ad testificandum* should be issued, a court must weigh the factors set forth in *Salemo v. Salemo*, 381 Pa. Super. Ct. 632, 554 A.2d 563 (1989).

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