

**Rule 1915.4-1. Alternative Hearing Procedures for Partial Custody or Visitation Actions.**

(a) **[Except as provided in subdivision (b),]** A custody action shall proceed as prescribed by Rule 1915.4-3 unless the court, by local rule, adopts the alternative hearing procedure authorized by Rule 1915.4-2 pursuant to which an action for partial custody or visitation may be heard by a hearing officer, except as provided in subdivision (b) below. [as prescribed by Rule 1915.4-2].

(b) Promptly after the parties' initial contact with the court as set forth in Rule 1915.4(a) **[above]**, a party may move the court for a hearing before a judge, rather than a hearing officer, in an action for partial custody or visitation where:

(1) there are complex questions of law, fact or both, or

(2) the parties certify to the court that there are serious allegations affecting the child's welfare.

(c) The president judge or the administrative judge of the family division of each county shall certify that custody proceedings generally are conducted in accordance with either Rule 1915.4-2 or Rule 1915.4-3. The certification shall be filed with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania and shall be substantially in the following form:

I hereby certify that \_\_\_\_\_ County conducts its custody proceedings in accordance with Rule \_\_\_\_\_.

\_\_\_\_\_  
(President Judge)

\_\_\_\_\_  
(Administrative Judge)

Note: Pursuant to Rule 1915.4-1, the following counties have certified to the Domestic Relations Procedural Rules Committee that their custody proceedings generally are conducted in accordance with the rule specified below:

<u>COUNTY</u>	<u>RULE</u>	<u>COUNTY</u>	<u>RULE</u>
<u>Adams</u>		<u>Lackawanna</u>	
<u>Allegheny</u>		<u>Lancaster</u>	
<u>Armstrong</u>		<u>Lawrence</u>	
<u>Beaver</u>		<u>Lebanon</u>	
<u>Bedford</u>		<u>Lehigh</u>	
<u>Berks</u>		<u>Luzerne</u>	
<u>Blair</u>		<u>Lycoming</u>	

<u>Bradford</u>	<u>McKean</u>
<u>Bucks</u>	<u>Mercer</u>
<u>Butler</u>	<u>Mifflin</u>
<u>Cambria</u>	<u>Monroe</u>
<u>Cameron</u>	<u>Montgomery</u>
<u>Carbon</u>	<u>Montour</u>
<u>Centre</u>	<u>Northampton</u>
<u>Chester</u>	<u>Northumberland</u>
<u>Clarion</u>	<u>Perry</u>
<u>Clearfield</u>	<u>Philadelphia</u>
<u>Clinton</u>	<u>Pike</u>
<u>Columbia</u>	<u>Potter</u>
<u>Crawford</u>	<u>Schuylkill</u>
<u>Cumberland</u>	<u>Snyder</u>
<u>Dauphin</u>	<u>Somerset</u>
<u>Delaware</u>	<u>Sullivan</u>
<u>Elk</u>	<u>Susquehanna</u>
<u>Erie</u>	<u>Tioga</u>
<u>Fayette</u>	<u>Union</u>
<u>Forest</u>	<u>Venango</u>
<u>Franklin</u>	<u>Warren</u>
<u>Fulton</u>	<u>Washington</u>
<u>Greene</u>	<u>Wayne</u>
<u>Huntingdon</u>	<u>Westmoreland</u>
<u>Indiana</u>	<u>Wyoming</u>
<u>Jefferson</u>	<u>York</u>
<u>Juniata</u>	

#### 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 use of less adversarial means.

Explanatory Comment--2007

The intent of the amendments to Rules 1915.4-1 and 1915.4-2, and new Rule 1915-4.3, is to clarify the procedures in record and non-record custody proceedings. When the first proceeding is non-record, no exceptions are required and a request for a *de novo* hearing may be made.

**Rule 1915.4-2. Partial Custody. Visitation. Office Conference. Hearing. Record. Exceptions. Order.**

(a) Office Conference.

(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)] (2)** If the respondent fails to appear at the conference before the conference officer as directed by the court, the conference may proceed without the respondent.

**[(c)] (3)** 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)] (4)** 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 before a hearing officer, which may be the same day, but in no event shall be more than forty-five days from the date of the conference.

(b) Hearing.

(1) The hearing shall be conducted by a hearing officer who must be a lawyer, and a record shall be made of the testimony. 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.

**[(e)] (2)** 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)] (3)** Within 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)] (4)** Within twenty days after the date the hearing officer's report 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 twenty days of the date of service of the original exceptions.

**[(h)] (5)** If no exceptions are filed within the twenty-day period, the court shall review the report and, if approved, enter a final order.

**[(i)] (6)** If exceptions are filed, the court shall hear argument on the exceptions within forty-five days of the date the last party files exceptions, and enter an appropriate final order within fifteen days of argument. No motion for Post-Trial Relief may be filed to the final order.

#### **[Explanatory Comment--1994**

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**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.

**Rule 1915.4-3. Non-Record Proceedings. Trial.**

(a) Non-Record Proceedings. In those jurisdictions which utilize an initial non-record proceeding such as a conciliation conference or office conference, if no agreement is reached at the conclusion of the proceeding, the conference officer or conciliator shall promptly notify the court that the matter should be listed for trial.

(b) Trial. The trial before the court shall be *de novo*. The court shall hear the case and render a decision within the time periods set forth in Rule 1915.4.