

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 155**

[Rule 1915.11-1. Elimination of Parenting Coordination.

Only judges may make decisions in child custody cases. Masters and hearing officers may make recommendations to the court. Courts shall not appoint any other individual to make decisions or recommendations or alter a custody order in child custody cases. Any order appointing a parenting coordinator shall be deemed vacated on the date this rule becomes effective. Local rules and administrative orders authorizing the appointment of parenting coordinators also shall be deemed vacated on the date this rule becomes effective.]

---The text below replaces the current rule ---

Rule 1915.11-1. Parenting Coordination. If a judicial district implements a parenting coordination program, the court shall maintain a roster of qualified individuals to serve as parenting coordinators. The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parties and, if unable to reach an agreement, recommend a resolution to the court.

(a) Appointment of a Parenting Coordinator.

(1) After a final custody order has been entered, a judge may appoint a parenting coordinator to resolve parenting issues in cases involving repeated or intractable conflict between the parties affecting implementation of the final custody order. A parenting coordinator should not be appointed in every case. The appointment may be made on the motion of a party or on the court's own motion.

(2) Unless the parties consent and appropriate safety measures are in place to protect the participants, including the parenting coordinator and other third parties, a parenting coordinator shall not be appointed when:

- (i) the parties to the custody action have a protection from abuse order in effect; or
- (ii) the court makes a finding that a party has been the subject of domestic violence perpetrated by a party in the custody matter, either during the pendency of the action or within 24 months preceding the filing of the action.

(3) The appointment of a parenting coordinator shall be for a specified period of time, which shall not exceed 12 months. A party may petition the court for an extension of the appointment or the court in its discretion may extend the appointment for an additional period.

(4) If the parenting coordinator seeks to withdraw from service in a case, the parenting coordinator shall petition the court and provide a copy to the parties or the parties' attorney.

(5) The parenting coordinator shall set forth in a separate written agreement with the parties:

- (i) the amount of any retainer;
- (ii) the hourly rate to be charged;
- (iii) the process for invoices and payment for services;
- (iv) information on the parenting coordination process; and
- (v) provide a signed copy of the agreement to the parties prior to initiating any services.

(b) Qualifications of the Parenting Coordinator. A parenting coordinator:

(1) shall be an attorney licensed to practice law in the Commonwealth of Pennsylvania;

(2) shall have practiced family law for at least five years;

(3) shall have a minimum of five hours training in the parenting coordination process in a program approved by an appropriate provider;

(4) shall have a minimum of ten hours of family mediation training in a program approved by an appropriate provider;

(5) shall have a minimum of five hours of training in domestic violence in a program approved by an appropriate provider; and

(6) shall complete a minimum of ten continuing education credits in any topic related to parenting coordination in each two-year period after initial appointment. A minimum of two hours in each two-year period must be on the issues of domestic violence.

(c) Appointment Order. The parenting coordinator's authority as delineated in subdivision (d) shall be included in the order appointing the parenting coordinator, which shall be substantially in the form set forth in Pa.R.C.P. No. 1915.22.

(d) Scope of Authority of the Parenting Coordinator. The parenting coordinator shall have the authority to recommend resolutions to the court on issues ancillary to the custody order, if the parties are unable to reach an agreement.

(1) In order to implement the custody order and resolve related parenting issues about which the parties cannot agree, the parenting coordinator is

authorized to recommend resolutions to the court about issues that include, but are not limited to:

- (i) Places and conditions for custodial transitions between households;
- (ii) Temporary variation from the custodial schedule for a special event or particular circumstance;
- (iii) School issues, apart from school selection;
- (iv) The child(ren)'s participation in recreation, enrichment, and extracurricular activities, including travel;
- (v) Child-care arrangements;
- (vi) Clothing, equipment, toys, and personal possessions of the child(ren);
- (vii) Information exchanges (e.g. school, health, social) between the parties and communication with or about the child(ren);
- (viii) Coordination of existing or court-ordered services for the child(ren), e.g. psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management;
- (ix) Behavioral management of the child(ren); and
- (x) Other related custody issues that the parties mutually have agreed in writing to submit to the parenting coordinator, which are not issues excluded in subdivision 2.

(2) The following issues are excluded from the parenting coordinator's scope of authority:

- (i) A change in legal custody as set forth in the custody order;
- (ii) A change in primary physical custody as set forth in the custody order;
- (iii) Except as set forth in subdivision (d)(1)(ii), a change in the court-ordered custody schedule that reduces or expands the child(ren)'s time with a party;
- (iv) A change in the residence (relocation) of the child(ren);
- (v) Determination of financial issues, other than allocation of the parenting coordinator's fees as set forth in subdivision (f)(1);
- (vi) Major decisions regarding the health, education, religion, or welfare of the child(ren).

(3) Unless the parties consent, the parenting coordinator shall not contact collateral sources or speak with the child(ren). Any communications with the child(ren) or collateral sources shall be limited to the issue(s) currently before the parenting coordinator. To effectuate this provision, the parties shall execute releases,

as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals.

(e) Communications. No Testimony.

(1) Communication between the parties or their attorneys and the parenting coordinator is not confidential.

(2) A party or a party's attorney may communicate in writing with the parenting coordinator, but shall contemporaneously send a copy of the written communication to the other party or the other party's attorney. Documents, recordings, or other material that one party gives to the parenting coordinator shall be promptly made available to the other party or the other party's attorney for inspection and copying.

(3) The parties and their attorneys may receive, but not initiate, oral *ex parte* communication with the parenting coordinator. A parenting coordinator may initiate oral communication with a party or party's attorney, but shall promptly advise the other party or the other party's attorney of the communication.

(4) Absent an emergency affecting the child(ren)'s health or welfare, communication between the parenting coordinator and the court shall be in writing and a copy of the written communication shall be contemporaneously sent to the parties or the parties' attorneys. If the parenting coordinator has communicated orally with the court on an emergency basis, the parenting coordinator shall promptly communicate in writing the substance of the oral communication to the parties or the parties' attorneys.

(5) A party cannot compel the testimony of a parenting coordinator without an order of court.

(f) Recommendations. Objecting to the Recommendation. Judicial Review. *De Novo* Record Hearing.

(1) The parenting coordinator shall provide to the parties notice and an opportunity to be heard on the issues.

(2) The parenting coordinator's recommendation shall be in writing on the Summary and Recommendation of the Parenting Coordinator form set forth in Pa.R.C.P. No. 1915.23 and sent to the court for review within two days after hearing from the parties on the issues. The parenting coordinator shall serve a copy of the Summary and Recommendation to the parties or, if represented, to their counsel.

(3) A party objecting to the recommendation shall file a petition for a *de novo* record hearing before the court within ten days of service of the filed Summary and Recommendation of the Parenting Coordinator form. The petition must specifically state the issues to be reviewed and include a demand for a *de novo* record hearing. A copy of the recommendation shall be attached to the petition. In accordance with Pa.R.C.P. No. 440, the petition shall be served upon the other party, if represented, the party's attorney, and the parenting coordinator.

(4) If the parties do not file an objection within ten days of receipt of the parenting coordinator's recommendation, the court shall:

- (i) accept the recommendation by order;
- (ii) modify the recommendation by order;
- (iii) send the recommendation back to the parenting coordinator for more specific information; or
- (iv) vacate the recommendation and conduct a *de novo* record hearing on the issues.

(5) As soon as practical, the court shall conduct a *de novo* record hearing on the issues specifically set forth in the petition. The court shall render a decision within the time set forth in Pa.R.C.P. No. 1915.4(d).

(6) The recommendation shall become a final order of court unless:

- (i) a party timely files with the court a petition objecting to the parenting coordinator's recommendation; or
- (ii) the court vacates the recommendation and conducts a *de novo* record hearing.
- (iii) If a timely objection is made by a party, the recommendation shall become an interim order of court pending further disposition by the court.

(g) Fees.

(1) The fees of the parenting coordinator shall be allocated between the parties by the appointing judge. The parenting coordinator may reallocate the fees, subject to *de novo* review by the court, if one party has caused a disproportionate need for the services of the parenting coordinator.

(2) In order to limit the financial burden on the parties, a parenting coordinator should meet with the parties only upon a request of a party to resolve an issue about which the parties disagree.

(3) Waiver of fees or reduced fees. Judicial districts implementing a parenting coordination program shall effectuate a policy or program by local rule so that indigent or low income parties may participate in the parenting coordination program at a reduced fee or no fee.

Rule 1915.22. Form of Order Appointing Parenting Coordinator. The order appointing a parenting coordinator pursuant to Pa.R.C.P. No. 1915.11-1 shall be in substantially the following form:

(Caption)

ORDER OF COURT

AND NOW, this _____ day of _____, 20___, it is hereby ordered as follows:

1. APPOINTMENT AND TERM:

Pursuant to Pa.R.C.P. No. 1915.11-1, _____ is appointed as the parties' parenting coordinator for a term of [] months (not exceeding 12 months), or until further order of court.

Legal counsel for _____, or either party, if unrepresented, shall provide copies of all orders, pleadings and custody evaluations in this case to the parenting coordinator within ten (10) days of the date of this order.

2. ROLE OF THE PARENTING COORDINATOR:

(a) The parenting coordinator shall attempt to resolve issues arising out of the custody order by facilitating an agreement between the parties and, if unable to reach an agreement, recommend a resolution to the court.

(b) The parenting coordinator shall not function as the attorney, advocate, counselor, or psychotherapist for the parties, the parties' child(ren), or family. However, the parenting coordinator is permitted and encouraged to facilitate communication and agreement between the parties when conflicts arise and shall always act in a manner conducive to the best interests of the child(ren).

3. PARENTING COORDINATOR'S SCOPE OF AUTHORITY:

In order to implement the custodial arrangement set forth in the custody order and resolve related parenting issues about which the parties cannot agree, the parenting coordinator is authorized to recommend resolutions to the court about issues that include, but are not limited to:

- (a) Places and conditions for transitions between households;
- (b) Temporary variation from the schedule for a special event or particular circumstance;
- (c) School issues, apart from school selection;
- (d) The child(ren)'s participation in recreation, enrichment, and extracurricular activities, including travel;

- (e) Child-care arrangements;
- (f) Clothing, equipment, toys, and personal possessions of the child(ren);
- (g) Information exchanges (e.g. school, health, social, etc.) and communication with or about the child(ren);
- (h) Coordination of existing or court-ordered services for the child(ren), e.g. psychological testing, alcohol or drug monitoring/testing, psychotherapy, anger management;
- (i) Behavioral management of the child(ren);
- (j) Other related custody issues that the parties mutually have agreed in writing to submit to the parenting coordinator, which are not issues excluded in Paragraph 4.

4. EXCLUSIONS FROM PARENTING COORDINATOR'S AUTHORITY:

(a) The following specific issues are excluded from the parenting coordinator's scope of authority:

- (1) A change in legal custody as set forth in the custody order;
- (2) A change in primary physical custody set forth in the custody order;
- (3) Other than as set forth in Paragraph 3(b), a change in the court-ordered custody schedule that reduces or expands the child(ren)'s time with a party;
- (4) A change in the residence (relocation) of the child(ren);
- (5) Determination of financial issues, other than allocation of the parenting coordinator's fees as set forth in Pa.R.C.P 1915.11-1(f)(1);
- (6) Major decisions regarding the health, education, religion, or welfare of the child(ren).
- (7) Other: _____

(b) Unless the parties consent, the parenting coordinator shall not contact collateral sources or speak with the child(ren). Any communications with the child(ren) or collateral sources shall be limited to the issue(s) currently before the parenting coordinator. To effectuate this provision, the parties shall execute releases, as necessary, authorizing the parenting coordinator to communicate with the appropriate individuals.

5. COMMUNICATIONS:

(a) The parenting coordinator shall determine the protocol of all communications, interviews, and sessions, including who shall attend the sessions (including the children), and whether the sessions will be conducted in person or by

other means. The protocols should include measures addressing the safety of all participants.

(b) Communications between the parties or their attorneys and the parenting coordinator are not confidential.

(c) The parties and their attorneys shall have the right to receive, but not initiate, oral *ex parte* communication with the parenting coordinator. The parenting coordinator shall promptly advise the other party or the other party's attorney of the communication. A party or a party's attorney may communicate in writing with the parenting coordinator, but shall contemporaneously send a copy of the written communication to the other party or the other party's attorney. Documents, recordings, or other material that one party gives to the parenting coordinator must promptly be made available to the other party or the other party's attorney for inspection and copying.

(d) Absent an emergency affecting the child(ren)'s health or welfare, communication from the parenting coordinator to the court shall be in writing and the parenting coordinator shall contemporaneously send copies to the attorneys for both parties, or to any unrepresented party. If the parenting coordinator has communicated orally with the court on an emergency basis, the parenting coordinator shall promptly communicate in writing the substance of the oral communication to the attorneys for the parties, or to an unrepresented party.

(e) A party cannot compel the testimony of a parenting coordinator without an order of court.

6. PARENTING COORDINATION PROCESS:

(a) The parenting coordinator shall provide to the parties notice and an opportunity to be heard on the issues.

(b) The parenting coordinator's recommendation shall be in writing on the Summary and Recommendation of the Parenting Coordinator form set forth in Pa.R.C.P. No. 1915.23 and sent to the court for review within two days after hearing from the parties on the issues. The parenting coordinator shall serve a copy of the Summary and Recommendation to the parties or, if represented, to their counsel.

(c) A party objecting to the recommendation shall file a petition for a *de novo* record hearing before the court within ten days of service of the filed Summary and Recommendation of the Parenting Coordinator form. The petition must specifically state the issues to be reviewed and include a demand for a *de novo* record hearing. A copy of the recommendation shall be attached to the petition. In accordance with Pa.R.C.P. No. 440, the petition shall be served upon the other party, if represented, the party's attorney, and the parenting coordinator.

7. DE NOVO RECORD HEARING:

(a) If the parties do not file an objection within ten days of receipt of the parenting coordinator's recommendation, the court shall:

- (1) accept the recommendation by order;
- (2) modify the recommendation by order;
- (3) send the recommendation back to the parenting coordinator for more specific information; or
- (4) vacate the recommendation and conduct a *de novo* record hearing on the issues.

(b) As soon as practical, the court shall conduct a *de novo* record hearing on the issues specifically set forth in the petition. The court shall render a decision within the time set forth in Pa.R.C.P. No. 1915.4(d).

(c) The recommendation shall become a final order of court unless:

- (1) a party timely files with the court a petition objecting to the parenting coordinator's recommendation; or
- (2) the court vacates the recommendation and conducts a *de novo* record hearing.
- (3) If a timely objection is made by a party, the recommendation shall become an interim order of court pending further disposition by the court.

8. ALLOCATION OF FEES:

(a) The parties will share the obligation to pay the fees of the parenting coordinator as follows: ___% Mother, ___% Father, ___% Third party. Fees may be reallocated by the court or the parenting coordinator if a party has disproportionately caused the need for the services of the parenting coordinator.

(b) The hourly rate of the parenting coordinator shall be set forth in a separate agreement entered into between the parties and the parenting coordinator.

(c) The parties will pay a joint retainer to the parenting coordinator in the percentages set forth above in an amount to be set forth in a separate agreement between the parties and the parenting coordinator. After each session, or at least once monthly, the parenting coordinator shall provide the parties with an invoice of charges incurred. The retainer may be replenished as services are rendered. Funds remaining at the conclusion of the parenting coordinator's appointment shall be returned to the parties.

9. TERMINATION/WITHDRAWAL OF PARENTING COORDINATOR:

(a) The parties may not terminate the parenting coordinator's services without court approval.

(b) A party seeking the termination of the parenting coordinator's services shall serve the other party and parenting coordinator with a copy of the petition for termination.

(c) If the parenting coordinator seeks to withdraw from service in a case, the parenting coordinator shall petition the court.

10. APPEAL:

If there is an appeal of the underlying custody order or this order, then this order shall be stayed during the pendency of the appeal.

BY THE COURT:

J.

Rule 1915.23. Form of the Summary and Recommendation of the Parenting Coordinator.

The recommendation of the parenting coordinator shall be in writing and shall be in substantially the following form:

(Caption)

**SUMMARY AND RECOMMENDATION
OF THE PARENTING COORDINATOR**

The undersigned, the duly appointed parenting coordinator in the above-captioned matter, pursuant to the Order of Court dated _____, 20__, after submission of an issue described below and after providing parties the parties an opportunity to heard on the issue, the parenting coordinator sets forth the following:

SUMMARY OF THE ISSUE(S)

1. Description of the issue(s):

2. The respective parties' position on the issue(s):

RECOMMENDATION

_____ Date

_____ Parenting Coordinator

ORDER OF COURT

**JUDICIAL REVIEW OF PARENTING
COORDINATOR'S RECOMMENDATION**

- Accepted.
- Modified as follows: _____

- Returned to the parenting coordinator for additional information on the following issue(s): _____

- Vacated. A *de novo* record hearing of the issue(s) is scheduled for _____, 20__ at _____ a.m./p.m. before the undersigned.

By the Court:

_____ Date

_____ J.