

Pennsylvania Rules of Orphans' Court Procedure

Rule 1.2. [Construction and Application of Rules] Purpose, Application, and Construction of Rules.

- (a) **[The] Purpose. These** Rules adopted by the Supreme Court **[regulating] regulate** the practice and procedure of the Orphans' Court Divisions of this Commonwealth and the local rules adopted by such courts **[shall be liberally construed to secure the just, timely and efficient determination of every action or proceeding to which they are applicable]**.
- (b) **Application. These Rules shall be liberally applied to secure the just, timely, and efficient determination of every action or proceeding to which they are applicable.** The court at every stage of any action or proceeding may disregard any error or defect of procedure that does not affect the substantive rights of the parties in interest.
- (c) **[The principles of interpretation and related matters set forth in Pa.R.C.P. Nos. 102 through 153 inclusive, with the exception of Pa.R.C.P. No. 126, shall apply to these Rules.] Construction. In the construction of the Pennsylvania Rules of Orphans' Court Procedure, the principles set forth in Pa.R.J.A. 104 to 115 shall be observed.**

[Note: Rule 1.2(a) is identical to former Rule 2.1. Rule 1.2(b) is new.]

[Explanatory] Comment: The Orphans' Court Division exercises equitable powers and applies equitable principles. *Estate of Hahn*, 369 A.2d 1290, 1291-92 (Pa. 1977); *Estate of Freihofer*, 174 A.2d 282, 284 (Pa. 1961).

[The question frequently arises as to the effect and use of the notes and explanatory comments which are issued with the Orphans' Court Rules. Notes and explanatory comments are not part of the Rules but they may be used in construing the Rules. The Supreme Court of Pennsylvania has stated in *Laudenberger v. Port Authority of Allegheny County*, 436 A.2d 147, 151 (Pa. 1981):

These explanatory notes have not been officially adopted or promulgated by this Court, nor do they constitute part of the rule. However, they indicate the spirit and motivation behind the drafting of the rule, and they serve as guidelines for understanding the purpose for which the rule was drafted.]