

SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE
RECOMMENDATION 145
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Rule 1915.1. Scope. Definitions.

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(b) As used in this chapter, unless the context of a rule indicates otherwise,

“action[” means],” all proceedings for legal and physical custody and proceedings for modification of prior orders of any court;

“child,” an unemancipated individual under 18 years of age;

“conciliator,” for purposes of these rules, a conciliator is synonymous with a conference officer as defined in this rule;

“conference officer,” an individual who presides over an office conference pursuant to Pa.R.C.P. No. 1915.4-2(a) or the initial non-record proceeding under Pa.R.C.P. No. 1915.4-3(a). For purposes of these rules, a conciliator is synonymous with a conference officer;

“custody[” means],” the legal right to keep, control, guard, care for and preserve a child and includes the terms “legal custody,” “physical custody,” and “shared custody;”

“hearing officer,” a lawyer who conducts a record hearing on partial custody cases pursuant to Pa.R.C.P. No. 1915.4-2(b);

“home county[” means],” the county in which the child [immediately preceding the time involved] lived with [the child’s] **either or both** parents, [a parent, or] a person acting as parent, or in an institution[,], for at least six consecutive months **immediately preceding the filing of the action[, and in].** **In** the case of a child less than six months old, the county in which the child lived from birth with any of the persons mentioned. A period of temporary absence of the child from the physical custody of the parent, institution, or person acting as parent shall not affect the six-month or other period;

“in loco parentis,” a person who puts himself in the situation of a lawful parent by assuming the obligations incident to the parental relationship without going through the formality of a legal adoption. The status of in loco

parentis embodies two ideas: 1) the assumption of a parental status; and 2) the discharge of parental duties;

Note: A.S. vs. J.S., 130 A.3d 763 (Pa 2015).

“legal custody[” means],” the right to make major decisions on behalf of the child, including, but not limited to, medical, religious, and educational decisions;

“mediator,” an individual qualified under Pa.R.C.P. No. 1940.4 and who assists custody litigants independently from the procedures set forth in Pa.R.C.P. Nos. 1915.1 - 1915.25 by engaging the litigants in the mediation principals in Pa.R.C.P. No. 1940.2 to resolve custody matters in whole or in part;

“mediation,” as defined in Pa.R.C.P. No. 1940.2;

“non-record proceeding,” the initial office conference set forth in Pa.R.C.P. No. 1915.4-3. Mediation sessions referenced in Pa.R.C.P. No. 1940.1 - 1940.9 shall not be construed as non-record proceedings in Pa.R.C.P. No. 1915.4-3;

“partial physical custody[” means],” the right to assume physical custody of the child for less than a majority of the time;

“person acting as parent[” means],” a person other than a parent, including an institution, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody. **See also, the definition of *in loco parentis* and 23 Pa.C.S. § 5402;**

“physical custody[” means],” the actual physical possession and control of a child;

“primary physical custody[” means],” the right to assume physical custody of the child for the majority of time;

“relocation[” means],” a change in a residence of the child which significantly impairs the ability of a non-relocating party to exercise custodial rights;

“shared legal custody[” means],” the right of more than one individual to legal custody of the child;

“shared physical custody[” means],” the right of more than one individual to assume physical custody of the child, each having significant periods of physical custodial time with the child;

“sole legal custody[” means],” the right of **[one]an** individual to exclusive legal custody of the child;

“sole physical custody[” means],” the right of **[one]an** individual to exclusive physical custody of the child; and

“supervised physical custody[” means],” custodial time during which an agency or an adult designated by the court or agreed upon by the parties monitors the interaction between the child and the individual with those rights.

Note: The term “supervised visitation” in the prior statute has been replaced by the term “supervised physical custody.”

Note: The definitions of the terms of the various forms of legal custody and physical custody are taken from 23 Pa.C.S. § 5322(a).

For additional definitions, see the Uniform Child Custody Jurisdiction and Enforcement Act, 23 Pa.C.S. § 5402.

Rule 1915.4-3. Non-Record Proceedings. Trials.

(a) *Non-Record Proceedings.* In **[those jurisdictions that utilize]judicial districts utilizing** an initial non-record proceeding **[such as a conciliation conference or], i.e.,** office conference, if **[no agreement is reached at]an agreement is not finalized prior to** the conclusion of the proceeding, the conference officer **[or conciliator]** shall promptly notify the court that the matter should be listed for trial. **[Any]A** lawyer employed by, or under contract with, a judicial district or appointed by the court to serve as a **[conciliator or mediator or] conference officer** to preside over a non-record proceeding shall not practice family law before a conference officer, hearing officer, permanent or standing master, or judge of the same judicial district.

(b) *Trial.* The trial before the court shall be **[de novo]de novo**. The court shall hear the case and render a decision within the time periods set forth in **[Rule]Pa.R.C.P. No. 1915.4**.