

**SUPREME COURT OF PENNSYLVANIA  
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE  
RECOMMENDATION 145**

**Proposed Amendments to Pa.R.C.P. Nos. 1915.1 and 1915.4-3**

**REPUBLICATION REPORT**

The Domestic Relations Procedural Rules Committee (“Committee”) proposes amendments to Pa.R.C.P. Nos. 1915.1 (Scope. Definitions) and 1915.4-3 (Non-Record Proceedings. Trial). This Recommendation had been published originally in the *Pennsylvania Bulletin*, Pa.B. 5676 (September 19, 2015), as a proposed amendment to Pa.R.C.P. No. 1915.4-3. Pa.R.C.P. No. 1915.4-3 precludes attorneys serving as conciliators, mediators, or presiding over a non-record custody proceeding from practicing family law before conference officers, hearings officers, and judges in the judicial district in which the attorney had been appointed or employed.

When this rule had been amended previously, the Committee understood that the judicial districts utilized various titles, including mediator, to identify the person presiding over non-record proceedings. As a result, the term mediator was added to the practice preclusion rule text. However, after the effective date of the earlier amendment, the Committee received input that Pa.R.C.P. No. 1915.4-3 operated to preclude attorneys who serve as mediators pursuant to Chapter 1940 from practicing family law. The comments suggested mediators, unlike persons presiding over non-record proceedings, had no contact with the court and did not make recommendations to the court. The comments further contended that court-established mediation programs successfully resolved a significant number of custody cases that would otherwise proceed through an already overburdened custody docket, and precluding family law attorneys from participating as custody mediators would adversely affect mediation programs by reducing the number of qualified mediators.

The Committee recognized the benefit that mediation provided to the courts and custody litigants in the amicable resolution of child custody cases. As set forth in Chapter 1940, mediation is a process for alternate dispute resolution of child custody cases; however, mediation is not a non-record proceeding as contemplated by Pa.R.C.P. No. 1915.4-3. The Committee proposed amending the Pa.R.C.P. No. 1915.4-3 to eliminate “mediator” from the rule in the original Recommendation 145. But since the original publication, the Committee received additional input that suggested merely deleting the term mediator from the rule text may not resolve the issue and could create other issues, as well.

This Recommendation proposes an amendment to Pa.R.C.P. No. 1915.4-3 for the exclusion from practicing family law in the judicial district based solely on whether

the attorney is presiding over the initial non-record proceeding, irrespective of the title held by the attorney in that capacity. Mediators, as defined in the proposed amendment to Pa.R.C.P. No. 1915.1 and as qualified in Pa.R.C.P. No. 1940.4, do not preside over custody conferences, hearings and non-record proceedings; rather, mediators engage custody litigants in alternate dispute resolution pursuant to Chapter 1940 of the Rules of Civil Procedure and, as such, the preclusion from practicing family law in the same judicial district in which the mediator is appointed is inapplicable.

Additionally, the Committee proposes an amendment to Pa.R.C.P. No. 1915.1 by adding additional definitions. The inclusion of some of the definitions is to standardize the terminology used in the custody process and to identify the court personnel by title and, in some cases, qualifications.