

**Rule 1915.4-3**

***Orientation. Mediation. Confidentiality. Mediator. Qualifications. Conciliation. Psychological Evaluation and Home Study.***

- i. Mediators shall have a college degree and either an advanced degree or equivalent experience. Additionally, all mediators without exception shall take a basic 40-hour domestic mediation training seminar conducted by trainers who have been approved by the American Academy of Family Mediators and a basic domestic violence training seminar which has been approved by the American Academy of Family Mediators. All mediators shall carry liability insurance. Mediators shall adhere to the standards of practice adopted by the American Academy of Family Mediators and the American Bar Association.
  - a. If at any time prior to or during any mediation session, it becomes apparent to the mediator or parties that the mediator has an actual conflict, the mediation shall be discontinued immediately, and a new mediator shall be assigned.
  - b. No one shall act as a mediator if he or she has provided legal representation, counseling or therapy for the parties or children. Subsequent to the mediation, no mediator shall act as legal counsel or as a therapist or expert for parties who took part in the mediation or children who were the subject thereof.
- ii. All mediation conducted through Generations shall be “closed.” Accordingly, the contents of such mediation shall be confidential. If both parties provide written consents, mediators may, but shall not be required, to discuss such contents with counsel or others. Disclosure by the mediator of anything learned during the mediation process shall be controlled by 42 Pa.C.S. §5949.
- iii. No one except parties shall be permitted in Generations office at the time set for mediation.
- iv. At the conclusion of the mediation session, if an agreement is reached, the mediator shall write a Memorandum of Understanding (“Memorandum”). The Memorandum shall not be legally binding upon the parties. Should parties have counsel, they shall be referred to counsel to reduce the Memorandum to a Parenting Agreement and/or Order of Court. Should parties not have counsel, they shall be referred to the Allegheny County Bar Association Lawyer Referral Service (“Lawyer Referral”). Lawyer Referral shall provide each party with the name of an attorney who has agreed to represent the party. Such counsel shall reduce the memorandum to a mutually agreeable Parenting Agreement and/or Order of Court for a flat fee of \$100 per party. Counsel shall be responsible for no other action on behalf of the party and need not enter an appearance with this Court.
- v. In the event no resolution results from mediation, the parties may consent to continue to mediate with the same mediator, or by consent the parties may choose a different Generations mediator. Up to an additional six hours of mediation may be

scheduled for a fee of \$100 per hour at \$50 per party. Absent consent to an alternative arrangement or Order of Court, each party shall be responsible for their own fee.

- vi. If at any time during these six additional hours of mediation the parties are able to reach a Memorandum of Understanding, which, in turn, is reduced to a Parenting Agreement and/or Order of Court, or should the mediator in his or her sole discretion declare that the mediation is at a permanent and irrevocable impasse and should be terminated, the mediator shall refund to each party \$50 for each full hour not used during the mediation.
- vii. Parties who elect to litigate the custody issue shall be required to present a praecipe to schedule a conciliation with one of the court's custody Domestic Relations Officers ("DROs"). This praecipe must be presented to Generations and must have a copy of the certificate of completion of mediation attached within 120 days of the completed mediation session.
- viii. Partial custody establishments, modification and contempts which are not settled by the DROs will be listed for a hearing before the Partial Custody Hearing Officer.
- ix. Custody cases which are not resolved by the DROs may be referred by the DRO for psychological evaluations. After the evaluation is completed, the parties may praecipe for conciliation before a judge.
- x. Parties who did not elect to pursue litigation at the completion of their mandatory mediation orientation session and who subsequently determine that they may need to return to litigation, may obtain conciliation by filing a praecipe, a copy of the certificate of completion of mediation, and a copy of the underlying pleading with Generations.
- xi. Parties who have never been through the Programs and wish to proceed directly to a conciliation must obtain an order permitting them to do so from the judge in either regular or *pro se*, motions.
- xii. Where the parties have gone to education but not to mediation (i.e., because the mediation was canceled because the parties had a consent order, or the parties were previously waived from mediation by a judge and a court order was issued following conciliation/hearing, etc.) the case will automatically be scheduled for mediation orientation only, and the petitioner will be provided an appropriate Scheduling Order. Petitioner and respondent will pay fees as stated above in the usual case.
- xiii. For parties who attended mediation orientation more than 120 days ago, whether they now have a new action (i.e., the case that initially brought them to mediation was establishment and now they seek modification or enforcement) or they need to resolve finally the action that originally brought them to mediation orientation (i.e.,

they initially mediated the issue of establishment but never turned the memorandum into a consent order), they will automatically be scheduled for mediation orientation as set forth above.

xiv. For parties who attended mediation orientation less than 120 days ago, they may file a praecipe for conciliation and proceed through the court process.

**Note:** Promulgated April 2, 1998, effective May 25, 1998; amended January 18, 2001, effective 30 days after publication in the *Pennsylvania Bulletin*.