

**Rule 1920.62. Proceedings by Indigent Parties.**

The procedures set forth in **[Rule 240] Pa.R.J.A. 1990** are incorporated herein and shall govern proceedings by indigent parties in divorce and annulment.

**Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

**EXPLANATORY COMMENT—1995**

The procedure for obtaining leave to proceed *in forma pauperis* in divorce and annulment matters as set forth in rescinded Rule 1920.62 was considerably less detailed than the procedure set forth in Rule 240, and did not prescribe a form petition for leave to proceed *in forma pauperis*. Practice is simplified by rescinding old Rule 1920.62 and directing indigent litigants in divorce and annulment matters to use the procedure and form petition set forth in Rule 240.

## **Rule 1940.5. Duties of the Mediator. Role of the Mediator.**

(a) As part of the orientation session, the mediator must inform the parties in writing of the following:

(1) the costs of mediation;

**[Note: Pa.R.C.P. No. 240 sets forth the procedures for obtaining leave to proceed *in forma pauperis* when the parties do not have the financial resources to pay the costs of litigation. This rule applies to court-connected mediation services as well, so that parties without sufficient resources may file a petition seeking a waiver or reduction of the costs of mediation.]**

(2) the process of mediation;

(3) that the mediator does not represent either or both of the parties;

(4) the nature and extent of any relationships with the parties and any personal, financial, or other interests that could result in a bias or conflict of interest;

(5) that mediation is not a substitute for the benefit of independent legal advice; and

(6) that the parties should obtain legal assistance for drafting any agreement or for reviewing any agreement drafted by the other party.

(b) When mediating a custody dispute, the mediator shall ensure that the parties consider fully the best interests of the child or children.

(c) With the consent of the parties, the mediator may meet with the parties' children or invite other persons to participate in the mediation.

(d) The role of the mediator is to assist the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, and finding points of agreement.

**Comment: Pa.R.J.A. 1990 provides procedures for obtaining leave to waive fees and costs when the parties do not have the financial resources to pay the costs of litigation. That rule applies to court-connected mediation services as well, so that parties without sufficient resources may file an application seeking a waiver or reduction of the costs of mediation.**

## **Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

### **EXPLANATORY COMMENT—1999**

Rule 1940.5 sets forth the mediator's responsibilities to the parties. Subdivision (c) permits the participation of third persons with the consent of both parties. Such persons would include attorneys, other family members, mental health professionals or any other person who may be of assistance in resolving the disputed issues.