

PART II. ORPHANS' COURT RULES

Rule

- 1—13. [Reserved].
- 14—16. [Renumbered].
- 17. [Reserved].

Chapter

- I. PRELIMINARY RULES
 - II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS
 - III. PETITION PRACTICE AND PLEADING
 - IV. FORMAT AND SERVICE OF LEGAL PAPER BY PARTIES AND COURT;
ELECTRONIC FILING
 - V. RULES GOVERNING SPECIFIC TYPES OF PETITIONS
 - VI. [Reserved]
 - VII. RULES RELATING TO PRE-HEARING AND HEARING PROCEDURE
 - VIII. RECONSIDERATION
 - IX. AUDITORS AND HEARING OFFICERS
 - X. REGISTER OF WILLS
 - XI. [Reserved]
 - XII. [Reserved]
 - XIII. [Reserved]
 - XIV. GUARDIANSHIPS OF INCAPACITATED PERSONS
 - XV. ADOPTIONS
 - XVI. PROCEEDINGS PURSUANT TO SECTION 3206 OF THE
ABORTION CONTROL ACT
- APPENDIX

Source

The provisions of this Part II amended December 5, 1975, 5 Pa.B. 3133, unless otherwise noted.

(Editor's Note: Rules 1—13 and 17 are rescinded and Rules 14 and 16 are amended under Supreme Court Order No. 682, dated December 1, 2015, effective September 1, 2016. See 45 Pa.B. 7098 (December 19, 2015). This order will be codified in the September 2016 *Pennsylvania Code Reporter*. Supreme Court Order No. 683, dated December 1, 2015, addresses local orphans' court rules. See 45 Pa.B. 7126 (December 19, 2015).)

RULE 1. [Reserved]

Rule

- 1.1. [Reserved].
- 1.2. [Reserved].
- 1.3. [Reserved].

Source

The provisions of this Rule 1 amended April 26, 1979, effective August 1, 1979, 9 Pa.B. 1514, unless otherwise noted.

Rule 1.1. [Reserved].

Source

The provisions of this Rule 1.1 adopted April 26, 1979, effective August 1, 1979, 9 Pa.B. 1514; reserved December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098. Immediately preceding text appears at serial pages (379783) to (379784).

Rule 1.2. [Reserved].

Source

The provisions of this Rule 1.2 amended April 26, 1979, effective August 1, 1979, 9 Pa.B. 1514; reserved December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098. Immediately preceding text appears at serial page (379784).

Rule 1.3. [Reserved].

Source

The provisions of this Rule 1.3 adopted October 16, 2006, effective 30 days from date on entry, 36 Pa.B. 6760; amended July 16, 2012, effective immediately, 42 Pa.B. 4908; reserved December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098. Immediately preceding text appears at serial page (379784).

CHAPTER I. PRELIMINARY RULES

- Rule
- 1.1. Short Title and Citation.
- 1.2. Purpose, Application, and Construction of Rules.
- 1.3. Definitions.
- 1.4. Extension of Time Limitations.
- 1.5. Local Rules.
- 1.6. Mediation by Agreement, Local Rule, or Court Order.
- 1.7. Entry and Withdrawal of Counsel.
- 1.8. Forms.
- 1.22. Citation of Authorities.
- 1.40 *In Forma Pauperis*.
- 1.99. Confidential Information and Confidential Documents. Clarification.

Source

The provisions of this Chapter I adopted December 1, 2015, effective September 1, 2016, 45 Pa.B. 7098, unless otherwise noted.

Rule 1.1. Short Title and Citation.

These rules shall be known as the Pennsylvania Rules of Orphans’ Court Procedure and may be cited as “Pa.R.O.C.P. _____ ”

Comment

The previous use of “Pa. O.C. Rule” to cite the Pennsylvania Rules of Orphans’ Court Procedure may not serve as a basis to invalidate a reference to that authority.

Source

The provisions of this Rule 1.1 amended June 10, 2021, effective October 1, 2021, 51 Pa.B. 3443. Immediately preceding text appears at serial page (400580).

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

(a) *Purpose.* These Rules adopted by the Supreme Court regulate the practice and procedure of the Orphans' Court Divisions of this Commonwealth and the local rules adopted by such courts.

(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) *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.

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).

Source

The provisions of this Rule 1.2 amended November 3, 2023, effective January 1, 2024, 53 Pa.B. 7151. Immediately preceding text appears at serial page (408561).

Rule 1.3. Definitions.

The following words and phrases when used in these Rules shall have the following meanings, respectively, unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the Chapter in which the particular Rule is included:

“Accountant”—a fiduciary or other party who has filed an Account;

“Account”—a financial report by a fiduciary of the principal and income transactions in the form prescribed by Rule 2.1, excluding the annual reports of Guardians;

“Adult”—an individual eighteen years of age or over;

“Clerk”—the Clerk of the Orphans' Court Division or its equivalent;

“Commonwealth”—the Commonwealth of Pennsylvania;

“Court”—the Orphans' Court Division of the Court of Common Pleas or any judge thereof having jurisdiction;

“Electronic Filing”—the electronic transmission via the internet of a legal paper to the clerk;

“Facsimile copy”—a copy of a document transmitted and received by facsimile equipment;

“Fiduciary”—an agent under a power of attorney, custodian under the Uniform Transfers to Minors Act, personal representative, guardian, trustee, guardian *ad litem*, or trustee *ad litem*, and any other person acting in any similar capacity, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the court;

“Filing Party”—a party, or an attorney acting on behalf of a party, who files a legal paper;

“Guardian”—a fiduciary who has the care and management of the estate, the person, or both, of a minor or an incapacitated person;

“Guardian *ad litem* or Trustee *ad litem*”—a fiduciary who is appointed by a court in a legal proceeding to represent an individual or class of individuals under a legal disability;

“Hearing Officer”—a person who is appointed by the court to investigate any issue of fact and to report findings of fact, conclusions of law, and recommendations to the court. A hearing officer shall include any person now or formerly referred to as a master by rule of court or statute;

“Incapacitated Person”—a person determined to be incapacitated under the provisions of Chapter 55 of Title 20 (relating to incapacitated persons);

“Interested Party”—one or more individuals or entities having or claiming an interest in the estate, trust, person or other entity that is the subject of the legal proceeding;

“Legal Paper”—a document that is filed with the court;

“Local Rule”—every Rule promulgated in accordance with Rule 1.5;

“Majority”—when used in reference to age, means of the age of eighteen years or over;

“Minor”—an individual under the age of eighteen years;

“Motion”—if in writing, a legal paper that must be signed, but does not need to be verified, does not plead any facts not of record, and does not require the court to obtain jurisdiction over an Interested Party;

“Objector”—an individual or entity filing objections to an Account and/or Petition for Adjudication/Statement of Proposed Distribution pursuant to Rule 2.7;

“Personal Representative”—the executor or administrator of any description of a decedent’s estate;

“Petition for Adjudication/Statement of Proposed Distribution”—a uniform, statewide form promulgated by the Supreme Court used in conjunction with the filing of an Account (see Appendix of forms);

“Pleading”—a type of legal paper that must be signed and verified in accordance with Rules 3.12 and 3.13 and includes, but is not limited to, petitions, answers, replies, and certain preliminary objections;

“Publication”—the publication in a newspaper of general circulation where such newspaper is originally issued and circulated;

“Register of Wills” or “Register”—the Register of Wills or its equivalent having jurisdiction or authority to probate wills and grant letters as provided by 20 Pa.C.S. § 901;

“Supreme Court”—the Supreme Court of the Commonwealth;

“Verified”—when used in reference to a written statement of fact, means supported by the signer’s oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Comment: This definitional section is new; but, some of the definitions are substantively identical to the definitions in former Rule 2.3 and other definitions are taken from and are similar to Pa.R.Civ.P. No. 76. The term “hearing officer” is used in these Rules in the same manner as “master” in the Probate, Estates and Fiduciaries Code, 20 Pa.C.S. §§ 101 *et seq.* See, e.g., 20 Pa.C.S. § 751(1).

Source

The provisions of this Rule 1.3 amended January 6, 2022, effective April 1, 2022, 52 Pa.B. 441. Immediately preceding text appears at serial pages (382093) to (382094) and (400581).

Rule 1.4. Extension of Time Limitations.

The court, upon its own motion or the motion of any party, may extend any time period prescribed by these Rules.

Note: Rule 1.4 is identical to former Rule 2.2.

Rule 1.5. Local Rules.

(a) All previously promulgated local rules are hereby vacated, effective September 1, 2016, except for those local rules promulgated under Chapter XIV regarding guardianship of incapacitated persons, Chapter XV regarding adoptions, and Chapter XVI regarding proceedings pursuant to Section 3206 of the Abortion Control Act.

(b) All previously promulgated local rules under Chapter XIV regarding guardianship of incapacitated persons are hereby vacated, effective June 1, 2019.

(c) All previously promulgated local rules under Chapter XV regarding adoptions are hereby vacated, effective July 1, 2022.

(d) The requirements for the promulgation and amendment of local procedural rules for orphans’ court proceedings are set forth in Pennsylvania Rule of Judicial Administration 103(d).

(e) The local rules applicable to practice in the Civil or Trial Division of the local Court of Common Pleas shall not be applicable in the Orphans’ Court Division unless so directed by these Rules or by local rule adopted by the court of the particular judicial district in accordance with Pa.R.J.A. No. 103(d).

Note: Effective August 1, 2016, Pennsylvania Rule of Judicial Administration 103 was amended to consolidate and include all local rulemaking requirements. Accordingly, the rulemaking requirements under Pa. O.C. Rule 1.5 for the promulgation and amendment of local procedural rules for orphans’ court proceedings were rescinded and replaced.

Source

The provisions of this Rule 1.5 rescinded and replaced June 28, 2016, effective August 1, 2016, 46 Pa.B. 3804; amended June 1, 2018, effective June 1, 2019, 48 Pa.B. 3524; amended July 22, 2021, effective July 1, 2022, 51 Pa.B. 4267. Immediately preceding text appears at serial page (408563).

Rule 1.6. Mediation by Agreement, Local Rule, or Court Order.

All parties having an interest in a matter may participate by written agreement, or the court by local rule or order in a particular matter may provide for the parties to participate, in private mediation or in court-supervised mediation.

Note: Rule 1.6 has no counterpart in former Orphans' Court Rules.

Explanatory Comment: The confidentiality of mediation is provided by statute, *See* 42 Pa.C.S. § 5949.

Rule 1.7. Entry and Withdrawal of Counsel.

(a) *Appearance.* Any counsel appearing before the court or the Register shall enter a written appearance by any one of the following means:

- (1) filing an entry of appearance with the clerk or the Register;
- (2) signing a legal paper that is filed with the clerk or the Register; or
- (3) as prescribed by local rule, which may include submitting an appearance slip to the court, entering counsel's information when a legal paper is filed, or signing a cover sheet.

(b) *Withdrawal.* Counsel who has entered an appearance before the court as provided in subparagraph (a) shall not be permitted to withdraw without filing a petition to withdraw and obtaining the court's leave, unless co-counsel, if any, will continue representing the party or there is a simultaneous entry of appearance by other counsel that will not delay the litigation.

Note: Rule 1.7 has no counterpart in former Orphans' Court Rules, but is based upon many local rules of similar import.

Explanatory Comment: Admission *pro hac vice* in accordance with Pennsylvania Bar Admission Rule 301 shall proceed by request, the disposition and content of which shall conform to the requirements of Pennsylvania Rule of Civil Procedure No. 1012.1.

Rule 1.8. Forms.

(a) The forms approved by the Supreme Court for statewide practice and procedure before the Registers and courts shall be used exclusively by all Registers and clerks. Where a Supreme Court-approved form exists, no other form shall be allowed or required by local rule or practice.

(b) The forms approved by the Supreme Court for statewide practice are set forth in an Appendix to these Rules. The forms may be revised and supplemented from time to time. The forms shall also be maintained for public access at the official website of the Administrative Office of Pennsylvania Courts.

(c) A court may require a legal paper to be accompanied by a cover sheet or checklist. A court that imposes such requirements must promulgate a local rule, numbered Local Rule 1.8(c), stating the requirements and setting forth the form of the cover sheet or checklist.

Note: Rule 1.8 is substantively similar to former Rule 1.3, but with some modifications.

Explanatory Comment: Rule 1.8 has been modified from former Rule 1.3 by now mandating the exclusive use of statewide forms promulgated by the Supreme Court. Previously, forms approved or mandated for use pursuant to local rule could be accepted by the local register and clerk so long as the local register and clerk also permitted and accepted forms promulgated by the Supreme Court. Now, if the Supreme Court has promulgated or approved a form for use before the register or clerk, then such form is the only one that may be used by the applicant or petitioner and is the only one that can be accepted by the local register or clerk. The mandatory statewide forms are set forth in the Appendix attached hereto. The current website for electronic access to the forms is found at www.pacourts.us/forms under the For-the-Public category. The forms posted on the website are capable of on-line completion.

Rule 1.22. Citation of Authorities.

Citation of authorities in matters subject to these rules shall be in accordance with Pa.R.A.P. 126.

Comment

See also 210 Pa. Code § 65.37 and *Wenk v. State Farm Fire and Casualty Co.*, 228 A.3d 540, 552 n.11 (Pa. Super. 2020) for citing to non-precedential decisions of the Superior Court; and Pa.R.A.P. 3716 and 210 Pa. Code. § 69.414 for citing to non-precedential decisions of the Commonwealth Court.

Source

The provisions of this Rule 1.22 added February 13, 2023, effective April 1, 2023, 53 Pa.B. 1052.

Rule 1.40. In Forma Pauperis.

Pa.R.C.P. No. 240 shall apply in every action or proceeding before a court covered by these Rules.

Explanatory Comment: Under Pa.R.C.P. No. 240, a party who is found by the court to be without financial resources to pay the costs of filing a legal paper or other costs of an action or proceeding before the court shall have such costs waived. This Rule does not apply in matters before a Register of Wills.

Source

The provisions of this Rule 1.40 adopted January 2, 2020, effective April 1, 2020, 50 Pa.B. 306.

Rule 1.99. Confidential Information and Confidential Documents. Certification.

Unless public access is otherwise constrained by applicable authority, any attorney, or any party if unrepresented, who files a legal paper pursuant to these rules with the clerk shall comply with the requirements of Sections 7.0 and 8.0 of the

Case Records Public Access Policy of the Unified Judicial System of Pennsylvania (Policy) including a certification of compliance with the Policy and, as necessary, a Confidential Information Form, unless otherwise specified by rule or order of court, or a Confidential Document Form, in accordance with the Policy.

Note: Applicable authority includes but is not limited to statute, procedural rule, or court order. The *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (Policy) can be found on the website of the Supreme Court of Pennsylvania at <http://www.pacourts.us/public-records>. Sections 7.0(D) and 8.0(D) of the Policy provide that the certification shall be in substantially the following form:

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

The Confidential Information Form and the Confidential Document Form can be found at <http://www.pacourts.us/public-records>. In lieu of the Confidential Information Form, Section 7.0(C) of the Policy provides for a court to adopt a rule or order permitting the filing of a document in two versions, a “Redacted Version” and an “Unredacted Version.”

Source

The provisions of this Rule 1.99 adopted January 5, 2018, effective January 6, 2018, 48 Pa.B. 483; amended June 1, 2018, effective July 1, 2018, 48 Pa.B. 3573. Immediately preceding text appears at serial pages (390182) to (390183).

[Next page is 2-1.]