

NOTICE TO THE BAR

FAMILY- COMMENTS SOUGHT ON PROPOSED RULE AMENDMENTS TO (1) ALIGN WITH REVISIONS TO JOB SPECIFICATIONS FOR FAMILY AS4 POSITIONS; AND (2) TO CONFORM TO LEGISLATION ELIMINATING USES FOR JUVENILE REFEREES

The Supreme Court invites written comments on proposed amendments to Rules 1:40-12 (“Mediators and Arbitrators in Court Annexed Programs”), 5:25-2 (“Referees”), 5:25-3 (“Child Support Hearing Officers”), 5:25-4 (“Domestic Violence Hearing Officers”) and proposed new Rule 5:25-5 (“Court Staff Mediators and Hearing Officers”) (attached). The rule amendments would: (1) standardize the job specifications for the Administrative Specialist 4 position (AS4) in the Family Division; and (2) conform to legislative amendments to N.J.S.A. 2A:4A-39, which require a juvenile to be represented by counsel at every critical stage of a court proceeding.

Revisions to AS4 Staffing in the Family Division

The Judiciary has used a role-based recruitment process in which candidates apply for and are appointed to a specific AS4 role - Child Support Hearing Officer, Domestic Violence Hearing Officer, Mediator, or Juvenile Referee. Going forward, Family Division AS4 positions will have one set of standard job specifications, with specialized training for each of their potential roles, i.e., as mediators, child support hearing officers, and domestic violence hearing officers.

Conclusion of Juvenile Referees

As noted, one of the Family Division’s uses of AS4s has been as juvenile referees, pursuant to Rule 5:25-2 (“Referees”) and standards promulgated by the Judiciary, in cases involving an informal or “counsel non-mandatory” hearing. Recent amendments to N.J.S.A. 2A:4A-39 clarify that a juvenile is entitled to be represented by counsel at every critical stage of a court proceeding, which includes cases that a juvenile referee previously would have handled. As a result of the statutory change, all hearings in these

cases now are “counsel mandatory” and require a judge to hear them, thus eliminating the need for juvenile referees. The proposed rule amendments would formalize the conclusion of the juvenile referee program in light of this legislative action.

Proposed Rule Amendments

The proposed rule amendments (copies attached) are as follows:


- Rule 1:40-12 would be amended to provide that the Administrative Director shall prescribe court staff mediator qualifications and training requirements; and
- Rules 5:25-2, 5:25-3, and 5:25-4 would be deleted and replaced with proposed new Rule 5:25-5, which would authorize the use of hearing officers and mediators to serve in docket types as provided in current Judiciary policies. The rule amendments would also formalize the conclusion of the juvenile referee program.

Please send any comments on the proposed court rule amendments in writing by November 15, 2024 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments - Family AS4 Positions
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via email to: Comments.mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by e-mail should include their name and e-mail address). Comments are subject to public disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: October 15, 2024

Rule 1:40-12. Mediators and Arbitrators in Court Annexed Program

(a) Mediator Qualifications.

(1) Generally . . . no change.

(2) Custody and Parenting Time Mediators. The Assignment Judge, upon recommendation of the Presiding Judge of the Family Part, may approve persons or agencies to provide mediation services in custody and parenting time disputes if the mediator meets the following minimum qualifications: (A) a graduate degree or certification of advanced training in a behavioral or social science; (B) training in mediation techniques and practice as prescribed by these rules; and (C) supervised clinical experience in mediation, preferably with families. In the discretion of the Assignment Judge, relevant experience may be substituted for either a graduate degree or certification, or clinical experience, or both.

(3) Court Staff Mediators and Judicial Law Clerks Serving in the Family Division. Court staff and judicial law clerks are exempt from the qualifications set forth in subparagraph (a)(2) of this Rule, but shall be qualified as prescribed by the Administrative Director of the Courts. They may provide mediation services in custody and parenting time disputes if designated as a qualified mediator trained in mediation techniques and practices as prescribed by the Administrative Director of the Courts.

[(3)] (4) Civil, General Equity, and Probate Action Roster Mediators

. . . no change.

[(4)] (5) Special Civil Part Settlers . . . no change.

[(5)] (6) Municipal Court Volunteer Mediators . . . no change.

[(6)] (7) Family Part Economic Mediators . . . no change.

(b) Mediator Training Requirements.

(1) General Provisions. All persons serving as mediators shall have completed the basic dispute resolution training course as prescribed by these rules and approved by the Administrative Office of the Courts. Volunteer mediators in the Special Civil Part and Municipal Court mediators shall have completed 18 hours of basic mediation skills complying with the requirements of subparagraph (b)(3) of this rule. Mediators on the civil, general equity, and probate roster of the Superior Court shall have completed 40 hours of basic mediation skills complying with the requirements of subparagraph (b)(5) of this rule and shall be mentored in at least two cases in the Law Division – Civil Part of Chancery Division – General Equity or Probate Part of the Superior Court for a minimum of five hours by a civil roster mentor mediator who has been approved in accordance with the “Guidelines for the Civil Mediation Mentoring Program” promulgated by the Administrative Office of the Courts. Family Part mediators shall have completed a 40-hour

training program complying with the requirements of subparagraph (b)(4) of this rule and, unless otherwise exempted in this rule, at least five hours being mentored by a family roster mentor mediator in at least two cases in the Family Part. In all cases it is the obligation of the mentor mediator to inform the litigants prior to mediation that a second mediator will be in attendance and why. If either party objects to the presence of the second mediator, the second mediator may not attend the mediation. In all cases, the mentor mediator conducts the mediation, while the second mediator observes. Mentored mediators are provided with the same protections as the primary mediator under the Uniform Mediation Act. Retired or former New Jersey Supreme Court justices and Superior Court judges, retired or former Administrative Law judges, retired or former federal court judges, and retired judges from other states who presided over a court of general jurisdiction or appellate court, child welfare mediators, and staff/law clerk mediators are exempted from the mentoring requirements except as required to do so for remedial reasons. Mediators already serving on the Civil mediator roster prior to September 1, 2015 are exempted from the updated training requirements. Family Roster mediators as referenced in subparagraph (a)(7) above who wish to serve on the Civil Roster, must complete the six-hour supplemental Civil Mediation training and must comply with the Civil roster mentoring requirement of five hours and two cases in the Civil Part.

(2) Continuing Training . . . no change.

(3) Mediation Course Content - Basic Skills . . . no change.

(4) Mediation Course Content – Family Part Actions. The 40-hour course for family action mediators shall include basic mediation skills as well as at least 22 hours of specialized family mediation training, which should cover family and child development, family law, dissolution procedures, family finances, and community resources. In special circumstances and at the request of the Assignment Judge, the Administrative Office of the Courts may temporarily approve for a one-year period an applicant who has not yet completed the specialized family mediation training, provided the applicant has at least three years of experience as a mediator or a combination of mediation experience and service in the Family Part, has co-mediated in a CDR program with an experienced family mediator, and certifies to the intention to complete the specialized training within one year following the temporary approval. Economic mediators in family disputes shall have completed 40 hours of training in family mediation in accordance with this rule. Judiciary staff mediators or judicial law clerks are exempt from this requirement and shall be trained in a manner as prescribed by the Administrative Director of the Courts.

(5) Mediation Course Content – Civil, General Equity, and Probate Actions . . . no change.

(6) Training Requirements for Judicial Law Clerks . . . no change.

(7) Co-mediation; mentoring; training evaluation . . . no change.

(8) Mediation Course Content – Supplemental Mediation Training for Civil and Family Mediators . . . no change.

(c) Arbitrator Qualification and Training . . . no change.

(d) Training Program Evaluation . . . no change.

Note: Adopted July 14, 1992 as Rule 1:40-10 to be effective September 1, 1992; caption amended, former text redesignated as paragraphs (a) and (b), paragraphs (a)3.1 and (b)4.1 amended June 28, 1996 to be effective September 1, 1996; redesignated as Rule 1:40-12, caption amended and first sentence deleted, paragraph (a)1.1 amended and redesignated as paragraph (a)(1), paragraph (a)2.1 amended and redesignated as paragraph (a)(2), paragraph (a)2.2 amended and redesignated as paragraph (b)(5), new paragraphs (a)(3) and (a)(4) adopted, paragraph (a)3.1 redesignated as paragraph (a)(5), paragraph (a)3.2 amended and incorporated in paragraph (b)(1), paragraph (a)4.1 amended and redesignated as paragraph (b)(6), paragraph (b)1.1 amended and redesignated as paragraph (b)(1), paragraphs (b)2.1 and (b)3.1 amended and redesignated as paragraphs (b)(2) and (b)(3), paragraph (b)4.1 redesignated as paragraph (b)(4) with caption amended, paragraph (b)5.1 amended and redesignated as paragraph (b)(7) with caption amended, new section (c) adopted, and paragraph (b)5.1(d) amended and redesignated as new section (d) with caption amended July 5, 2000 to be effective September 5, 2000; paragraphs (a)(3) and (b)(1) amended July 12, 2002 to be effective September 3, 2002; paragraphs (b)(1), (b)(3), and (c) amended July 28, 2004 to be effective September 1, 2004; caption amended and paragraph (a)(4) caption and text amended June 15, 2007 to be effective September 1, 2007; new paragraph (a)(6) caption and text adopted, paragraph (b)(1) amended, paragraph (b)(2) deleted, paragraphs (b)(3) and (b)(4) redesignated as paragraphs (b)(2) and (b)(3), paragraph (b)(5) amended and redesignated as paragraph (b)(4), and paragraphs (b)(6) and (b)(7) redesignated as paragraphs (b)(5) and (b)(6) July 16, 2009 to be effective September 1, 2009; subparagraphs (b)(2) and (b)(4) amended July 21, 2011 to be effective September 1, 2011; subparagraph (a)(3) caption and text amended, subparagraphs (a)(4), (a)(6), (b)(1), (b)(2) and (b)(4) amended,

former subparagraph (b)(5) redesignated as subparagraph (b)(6), former subparagraph (b)(6) redesignated as subparagraph (b)(7), new subparagraphs (b)(5) and (b)(8) adopted July 27, 2015 to be effective September 1, 2015; subparagraphs (a)(3) text, (a)(5) caption and text, and (b)(1) text and paragraph (c) amended July 28, 2017 to be effective September 1, 2017; paragraph (a)(3) amended, paragraph (a)(4) caption and text amended, and paragraphs (b)(1), (b)(3), and (b)(6) amended July 29, 2019 to be effective September 1, 2019; paragraph (c) amended July 31, 2020 to be effective September 1, 2020; subparagraphs (b)(1), (b)(3), (b)(4), (b)(5), (b)(6), (b)(8), paragraph (c), and subparagraph (c)(3) amended July 30, 2021 to be effective September 1, 2021; new subparagraph (a)(3) adopted, former subparagraphs (a)(3) through (a)(6) redesignated as (a)(4) through (a)(7), subparagraphs (b)(1) and (b)(4) amended _____ to be effective _____.

[Rule 5:25-2. Referees

The judge of the Family Part may with the approval of the Chief Justice appoint a suitable person to act as referee. The recommendations of the referee shall be without effect unless approved by the court and incorporated in an appropriate order or judgment of the court.]

Note: Source-R. (1969) 5:10-3. Adopted December 20, 1983, to be effective December 31, 1983; ~~deleted _____ to be effective _____~~.

[Rule 5:25-3. Child Support Hearing Officers

(a) Appointment. There shall be established within the Family Part of the Chancery Division an Office of the Child Support Hearing Officer. The Office of the Child Support Hearing Officer shall consist of a Chief Child Support Hearing Officer, and as many other Child Support Hearing Officers as may be determined appropriate by the Supreme Court. The Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be appointed by the Chief Justice and shall be under the direct supervision of the Family Part Presiding Judge of the county in which the Child Support Hearing Officer is assigned. The administrative supervision of the Child Support Hearing Officers shall be vested in the Administrative Director of the Courts.

(b) Jurisdiction. The Child Support Hearing Officer shall hear and make recommendations that the court enter orders based thereon in all Title IV-D, Federal Social Security Act, cases concerning:

- (1) Establishment of Paternity or the Parent/Child relationship only when the matter is uncontested. When the issue of paternity is contested, the Child Support Hearing Officer shall refer the paternity issue to the court.
- (2) Establishment of the obligation and amount of child support.

- (3) Establishment of any other financial obligation regarding the care and maintenance of children as well as an obligation to provide medical coverage.
- (4) Modification of the obligation of child support.
- (5) Enforcement of the obligation of child support or any other support order.
- (6) The establishment, modification and enforcement of support pursuant to N.J.S.A. 2A:4-30.124 to 2A:4-30.201, the Uniform Interstate Family Support Act.
- (7) If any establishment case involves a complex issue requiring judicial resolution, the Child Support Hearing Officer shall recommend a temporary order establishing the obligation of child support pending referral of the matter to the court.
- (8) Advanced written and oral notice shall be given to the parties that their case will be heard by a Child Support Hearing Officer, and they may object to the recommendation of the Child Support Hearing Officer, which will result in an immediate hearing before a Superior Court Judge pursuant to Rule 5:25-3(d)(2).

(c) Duties, Powers, and Responsibilities. The Child Support Hearing Officer shall be responsible to the Presiding Judge in the establishment, modification, and enforcement of all Title IV-D child-support actions. Such Child Support Hearing Officers shall serve at the pleasure of the Chief Justice and his/her

powers and duties shall be prescribed in the order appointing him/her or in the Rules of Procedure of the Family Part. Such Child Support Hearing Officers shall:

- (1) regulate all proceedings before him/her;
- (2) take testimony and establish a record;
- (3) do all acts and take all measures necessary or proper for the efficient performance of his/her duties;
- (4) recommend that the court order the production before him/her of books, papers, vouchers, documents, and writings;
- (5) rule upon the admissibility of evidence;
- (6) recommend the issuance of summonses or subpoenas for the appearance of parties or witnesses, administer oaths, examine parties and witnesses under oath;
- (7) accept voluntary acknowledgment of support liability and stipulations or agreements setting the amount of child support to be paid and/or admitting paternity;
- (8) evaluate evidence and make recommendations as to the establishment and enforcement of child-support orders;
- (9) recommend entry of default judgments in appropriate cases;
- (10) in appropriate cases and with the immediate review by the court, make written findings, and based thereon may:

(A) recommend that the court adjudicate that a person has failed to comply with an order in violation of litigant's rights, and recommend incarceration for failure to comply with an order of the court that provided for the payment of support or the performance of any other act;

(B) request that a witness or party be brought directly before the court for a judicial hearing;

(11) recommend that the court issue a warrant upon the failure of a party or a witness to appear after having been properly served, and recommend a release amount to satisfy full arrears;

(12) recommend that the court order a party to participate in blood or genetic tests for the purpose of establishing paternity.

(d) Review by Presiding Judge or Designee; Appeal; Time; Record.

(1) The Presiding Judge of the Family Part or a Judge designated by the Presiding Judge shall immediately review all recommendations of a Child Support Hearing Officer. Appropriate recommendations shall be signed and ratified by the Judge.

(2) A party not accepting a recommendation entered by the Child Support Hearing Officer shall be entitled to an immediate appeal of the recommendation to the Presiding Judge of the Family Part or a Judge

designated by the Presiding Judge who shall conduct a hearing forthwith. The appeal may be made by either party, and shall be heard de novo not on the record below. Failure of a party to request a de novo appeal on the day of the hearing shall require the filing of a motion before further relief can be considered.

(3) Orders of the Family Part entered as a result of a Child Support Hearing Officer's recommendation shall be recognized as a final order of the Superior Court. Copies of the orders shall be provided to the parties or their attorneys. Orders may be appealed to the Appellate Division of the Superior Court within the time and according to the procedures prescribed by the Rules for appeals to the Appellate Division. The time for appeal shall run from the date of the signing of the order by a Judge of the Superior Court.

(e) Service. All rules concerning service of notice and due process rights applicable to the Family Part shall be applicable to the Child Support Hearing Officer hearings.

(f) Standards and Guidelines. The Child Support Hearing Officer shall use any support-setting guidelines that may be approved by the Supreme Court.

(g) Qualifications and Compensation. The qualifications and compensation for the Chief Child Support Hearing Officer and other Child Support Hearing Officers shall be established by the Administrative Director of the Courts, subject to the approval of the Supreme Court.]

Note: Source-new. Adopted September 24, 1985 to be effective October 1, 1985; paragraph (c)(12) adopted June 28, 1996 to be effective September 1, 1996; paragraph (b)(6) amended May 25, 1999 to be effective July 1, 1999; paragraphs (c)(10) and (c)(11) amended June 15, 2007 to be effective September 1, 2007; paragraph (d)(2) amended July 16, 2009 to be effective September 1, 2009; subparagraph (b)(6) amended July 28, 2017 to be effective September 1, 2017; deleted _____ to be effective _____.

[Rule 5:25-4. Domestic Violence Hearing Officers

Domestic Violence Hearing Officers may be appointed by the Judiciary to handle and make recommendations in matters under the Prevention of Domestic Violence Act (N.J.S.A. 2C:25-17 et seq.) in accordance with the provisions of that Act, Rule 5:7A ("Domestic Violence: Restraining Orders"), and such other policies and procedures as are applicable.]

Note: Adopted July 28, 2004 to be effective September 1, 2004; deleted
to be effective.

Rule 5:25-5. Court Staff Mediators and Hearing Officers [new]

Court staff mediators and hearing officers are employed by the Judiciary to provide complementary dispute resolution services in the Family Part. The Administrative Director of the Courts shall prescribe the standards governing these services.

Note: Adopted _____ to be effective _____.