

Announcement
Amendments to Rules 16 through 16.4, 36, 52, 101, 300 and 501 of the
Family Court Rules of Civil Procedure

By Order dated October 5, 2017 and effective January 1, 2018, the Delaware Family Court has amended Rules 16 through 16.4, 36, 52, 101, 300 and 501 of the Family Court Rules of Civil Procedure. The amendments follow up on the recommendations of the American College of Trial Lawyers/Delaware State Bar Association Joint Study of the Delaware Courts, and in particular, the ACTL/DSBA recommendation to standardize pre-trial civil case management practices in Family Court.

A key goal of the amendments is to make the rules more user friendly for self-represented litigants while also responding to concerns raised by lawyers who practice in Family Court. The most significant change is that prior Rule 16 has been split into three separate rules, Rules 16, 16.1 and 16.2. Prior Rule 16 included information about filing required reports, Family Court mediation, and pretrial conferences. The three new rules deal with each topic individually. First, amended Rule 16 provides clear and detailed information on the completing and filing of required reports related to (1) child support, (2) custody, visitation and guardianship, and (3) ancillary matters. The Custody, Visitation and Guardianship Disclosure Report is newly required and will provide the Court with information helpful to its reaching a decision in the best interest of the child. Amended Rule 16 also now contains details on completing and filing the ancillary pretrial stipulation, a topic previously addressed in Rule 52. Finally, required reports will no longer be referred to by rule number but instead by their function. By doing so, self-represented litigants can better identify what they must file and when they must file it.

Next, amended Rule 16.1 deals with Family Court's mediation program. The amended Rule was drafted to allow litigants to quickly access information relevant to their case type. Amended Rule 16.1 also now provides litigants with information on how the Court will review proposed custody, visitation and guardianship orders reached at mediation.

The last of the three new rules is amended Rule 16.2, a case management rule, which will allow judges to get involved early in a case. Amended Rule 16.2 gives litigants and lawyers information on what to expect from both case management conferences and pretrial conferences.

Additional changes have been made to the rules dealing with alternative dispute resolution and the divorcing and separating parents' education program. Rule 16.3 now provides detailed information about confidentiality in the alternative dispute resolution process. Rule 16.4, although keeping the requirement that parties participate in a certified parent education class, allows the parties in a custody or visitation case to appear in front of a judicial officer before finishing the class. Rule 16.4 also now reflects the statutory role of the Department of Services for Children, Youth, and Their Families in certifying the parent education programs while providing guidance to the parties on how to request that the Court recognize a comparable education program.

Finally, the remaining amendments to Rules 36, 52, 101, 300 and 501 were required based on the amendments to Rule 16 and are not substantive.