FAMILY COURT OF THE STATE OF DELAWARE

VISITATION

Who may file a Petition for visitation?

Any adult may file for visitation of a child. The standard that the Court will use, however, is the best interests of the child OR consent of the parties. Visitation is usually only granted to individuals who have a close relationship with the child.

What will a visitation order provide?

A visitation order will provide the parties with a schedule of contact with the child. A visitation order will not address custody of the child.

How does a grandparent obtain visitation with a grandchild?

A grandparent may file a Petition for Visitation with their grandchild. Special standards apply in these situations. Please see the Grandparent Visitation FAQ for more information.

Must I take a parent education course if I file for visitation?

If you and the other party are the parents of the child named in the Petition for Visitation, you must complete a parent education course. For more information on Parent Education, please see the Parent Education FAQ.

What if the other party and I agree on a visitation schedule?

You may file a Consent Order along with your Petition for Visitation. A Judicial Officer will review your consent order. If the Consent Order is signed by the Judicial Officer, it becomes a Court Order, which must be followed.

What are the Contact Guidelines?

The Contact Guidelines are a tool developed by the Court to assist parties in developing a visitation schedule that will work for them. The Contact Guidelines are available in the Resource Centers and on the Family Court website. Consider whether the Contact Guidelines accommodate your and the Respondent's schedule as well as the schedule of the child. You are not required to follow the Guidelines.

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Will non-payment of child support affect the visitation petition?

No. Visitation and child support are separate legal actions. Visitation rights are not contingent upon the payment of child support. Likewise, the obligation to pay child support exists regardless of whether visitation is taking place. In other words, a parent cannot be denied visitation with a child simply because he/she has not paid child support. Also, a parent may have to pay child support even though he/she is not allowed visitation with a child.

Will I attend mediation?

After all of the Respondents have been served with the Petition for Visitation or Petition to Modify Visitation and each of the Respondents has had an opportunity to file an Answer, the Court normally will schedule your visitation matter for Mediation. ALL PARTIES are required to attend. Mediation will not be scheduled if there is an active no contact order between the parties or a finding of domestic violence, or if one of the parties is a sex offender as defined by Delaware law.

The other party is not allowing me to have any visitation with the child. What can I file?

You may file a Motion for Temporary Visitation. In this Motion, you must explain to the Court that there is no current visitation schedule and that you are experiencing less visitation than that which would routinely be awarded by the Court.

How can I file my petition and related paperwork?

Petitions and papers may be filed at or mailed to the Family Court in each county. Family Court also now accepts petitions and papers by email. To file your petition by email, you must send the petition and all required forms to: FC_CustodyVisitation@delaware.gov

- Please see the below list for the forms that must be filed with your petition. Family Court will serve the other parties your petition.

You may also use FC_CustodyVisitation@delaware.gov to file with the Court answers, motions, and any other required papers. Although you can file these documents with the Court by email, you must still serve copies of these documents on the other parties personally or by mail.

****Before filing by email, please review the Civil Filing by Email FAQ:**
https://courts.delaware.gov/family/faqs

Required Forms for Visitation

- Petition for Visitation (Form 350)
- Custody Separate Statement (Form 346)
- Information Sheet (Form 240)

Required Form Prior to Mediation or First Court Appearance

- Custody, Visitation, and Guardianship Disclosure Report (Form 364)

Required Forms for Visitation Modification (to modify an existing Visitation Order)

- Petition to Modify Parental Visitation (Form 351)
- Custody Separate Statement (Form 346)
- Information Sheet (Form 240)

Situational Forms (Please review all forms and scenarios)

- Affidavit of Unknown Address (Form 241) This form should be filed if you do not know where the Respondent(s) live

- Consent Order - Visitation (Form 349V) File this document only if you and the Respondent(s) have already agreed on how the visitation matters should be arranged

- Affidavit of Non-Military Service (Form 405) This form should be filed if you know that the Respondent is NOT in the military service of the United States of America and ONLY if the Respondent has not filed an answer or otherwise entered an appearance with the Court by the day of your hearing

- Waiver of Rights under the Servicemembers' Civil Relief Act (Form 420) File this form only if the Respondent is in the military. If the Respondent does not file an Answer or Affidavit of Appearance, you must have the Respondent(s) sign the form. If you are unable to reach the Respondent to obtain any of these documents, you must file a Motion to Appoint and Attorney (see Motion Packet).

For more information on visitation, please see the Visitation Instruction Packet. This packet is available in the Resource Centers located in each courthouse and online at https://courts.delaware.gov/family.

Family Court Contact Information

New Castle County	**Kent County**	**Sussex County**
500 NORTH KING STREET	445 SOUTH GOVERNORS AVENUE	100 EAST MARKET STREET
WILMINGTON, DE 19801	DOVER, DE 19901	GEORGETOWN, DE 19947
(302) 255-0300	(302) 672-1000	(302) 855-7400

For more information, visit the Family Court webpage or scan the QR code.