PARENT VISITATION INSTRUCTION PACKET

https://courts.state.de.us/family

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PARENT VISITATION INSTRUCTION PACKET

Use the Parent Visitation Instruction Packet **ONLY** when:

- You would like to request visitation with your child **OR** change the visitation schedule you currently have with your child. Visitation establishes a schedule of contact between you and your child. You do not receive any custody rights by filing for visitation, however, visitation is usually addressed in a custody order. (For more information on filing for custody, please see the Custody Instruction Packet); **AND**
- The child has been living in Delaware for **AT LEAST 6 CONSECUTIVE MONTHS BEFORE** filing your petition. (There are exceptions to this 6-month requirement. If the child has not lived in Delaware for at least 6 months, talk to an attorney to see if an exception applies to your situation.).

If you and the Respondent already agree about how you want the visitation arrangement to be handled, you may file a **Consent Order**. To file a Consent Order, you and the Respondent write down how you want the visitation arrangement to work and a Hearing Officer will sign your agreement and make it an order of the Court. To obtain a Consent Order, you must file all of the following forms. Each form is described in detail on the page number listed. You must file the **Petition for Parental Visitation** (page 10) **OR** the **Petition for Modification of Visitation** (page 10), the **Custody Separate Statement** (page 12), the **Information Sheet** (page 13) and the **Consent Order-Custody, Visitation** (page 14).

To make this Instruction Packet easier to read, it will explain Visitation as if you wanted to file for Visitation of one child. If you would like to have visitation with more than one child and all of the children have the same mother **AND** the same father, you may file for visitation of all of the children on the same petition. **Please note that if any**

of the children you are seeking visitation with have different fathers or mothers, you must file for visitation on separate petitions. For example, if two of the children have one father and one of the children has a different father, you would be required to file two petitions, one for each father.

HOW TO USE THE PACKET

This packet contains general information about the process of filing a Petition for Parental Visitation or a Petition to Modify Visitation, basic instructions on how to complete the Court forms you must file, and samples of the completed Court forms.

You should read the instructions and sample forms carefully **before** filling out any forms. All of the forms must be neatly filled out by hand or typed. **ONLY FILE THE FORMS INCLUDED IN THE FORMS PACKET.** The sample forms included in this Instruction Packet are simply to help you understand how to fill out the real forms in the Forms Packet. Current versions of the forms are available in the Resource Center or at this website: https://courts.delaware.gov/family/

YOU DO NOT HAVE TO COMPLETE ALL THE SECTIONS AT ONCE. For example, you do not have to file the forms in Section 2 at the same time as the forms in Section 1. Read the information carefully to ensure that you know what you are supposed to do and when.

Please look for the shaded written instructions and the following symbols throughout the packet. They will help guide you.

READ THIS SECTION CAREFULLY

THIS DOCUMENT MUST BE FILED

FILL IN THE BLANKS OR WRITE INFORMATION HERE

YOU DO NOT HAVE TO TAKE THESE STEPS NOW.

TIPS AND REMINDERS …

- ✓ Make sure to read any **Answers to Frequently Asked Questions** on Visitation. They will help you better understand the Visitation process.

- ✓ Remember who is the Petitioner and who is the Respondent.
  - ➢ The **PETITIONER** is the person who filed the Petition for Parental Visitation or Petition to Modify Visitation, in other words, you.
  - ➢ The **RESPONDENT** is the person replying (responding) to the Petition.

- ✓ Remember that just because you fill out the forms correctly does not necessarily mean the Court will give you (grant) what you want. It is up to *you* at the court hearing to prove why the Court should give you what you want.

- ✓ Representing yourself may take a lot of time, may be difficult and may be confusing. The Court will expect you to follow the same rules that attorneys must follow. **If at any point throughout the Court process you are not sure about representing yourself, you should talk to an attorney.**

- ✓ Please remember that **COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.** Should you have a question about what options you have or what you should do, you should talk to an attorney. Just because you talk to an attorney does not necessarily mean that you must hire that attorney to represent you. Ask the attorney if he/she is willing to meet with you and

If you would like assistance finding an attorney, or to see if you qualify for free legal assistance, you can visit the Delaware Volunteer Legal Services website at https://delegalhelplink.org.

- ✓ **Always bring your government issued photo identification** with you (such as your driver's license, or a state-issued photo identification card) whenever you get a Court form notarized.

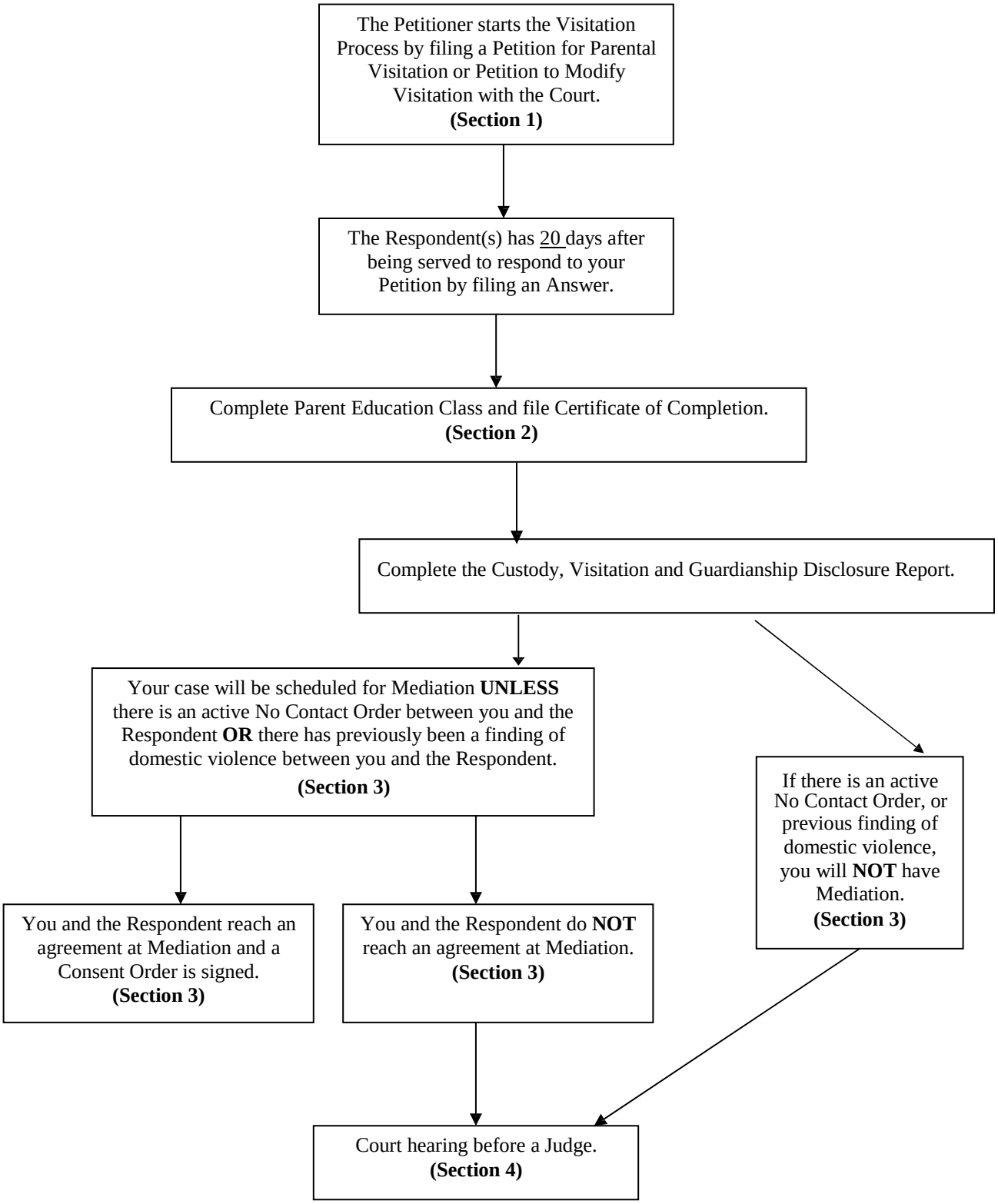
- ✓ **THERE IS A LOT OF PAPER IN A COURT CASE AND HAVING THE COURT MAKE YOU COPIES CAN BE VERY EXPENSIVE**.

PLEASE READ AND REMEMBER THESE IMPORTANT TIPS

REMEMBER

- **Keep a copy of every document and court paper.**
- **Keep all notes, documents and court papers together and organized in a folder with the most recent papers on top.**
- **Bring the folder with your papers with you every time you go to Court.**
- **When you file a document with the Court, bring the required number of copies of each paper and an extra copy for you to have "clocked-in." Keep the clocked-in copy in your folder so you have proof of the time and date you filed each document. You may make copies at the Resource Centers but there is a small fee.**
- **When you complete a document or form for filing with the Court, always include the full case name and file and petition numbers (if there are any).**
- **When you must mail something, we suggest that you use regular mail AND "certified mail, return receipt requested" so that you have proof the other party received the envelope. If you cannot afford to pay for "certified mail" we suggest you get a "certificate of mailing" at the post office to prove that you mailed the envelope to the other party. You may purchase stamped envelopes at the Resource Centers and the Court will mail your Court papers for you by regular mail. You are responsible for certified mailing.**

VISITATION PROCESS



SECTION 1

STARTING THE VISITATION PROCESS

You **MUST** file the **ORIGINAL** and at least **ONE (1) COPY** of each form below with the Court.

- Make a copy of each completed form for your records.
- Have your set of copies "clocked-in" for your file. Having a paper "clocked-in" means that the Court will stamp on the copy the time and date you filed your papers. Your clocked-in copy will serve as proof of the time and date you filed the paper.

Petition for Parental Visitation OR Petition to Modify Visitation form. (*file the original and one copy for each Respondent*).

- Sample forms may be found on pages 21-22.
- Any parent of a child may file for parent visitation. If you are not sure that you qualify as the legal parent of a child, you should speak to an attorney.
- You only need to file **ONE** of the above petitions. The following information will help you to decide which petition to file:
  - If you and the other party have **never** had a court-ordered visitation schedule with the child (this includes a visitation schedule that is part of a Custody Order), you **MUST** file a Petition for Parental Visitation asking the Court to **enter an initial visitation order**.
  - If you and the other party **do** have a court-ordered visitation schedule with the child, you **MUST** file a Petition to Modify Visitation asking the Court to **change** the current visitation schedule.
- The U.S. and Delaware State Constitutions require that whenever a petition is filed with the Court, **ALL** of the people involved with the case must be notified. By naming a person as a Respondent, you are asking the Court to notify him/her of the petition. As a parent filing for visitation

you must name the other parent as a Respondent. You must also name any current guardian or custodian if that person is not the other parent. If you fail to notify any of the necessary parties, your petition may be deficient and you may have to start the process over, including paying another filing fee.

- When alleging facts in your Petition for Parental Visitation or Petition to Modify Visitation, you want to give the Court information so that it can decide what visitation arrangement is in the child's **"best interest."** Generally, the child's "best interest" is the legal standard the Court must follow when deciding who should have visitation with a child. (See Title 13 of the Delaware Code, section 722.) The Court will want to know about the following things when deciding what is in the child's "best interest." Explain to the Court how the following things apply to your situation.

1. The wishes of the child's parents as to his/her custody and living arrangements;
2. The wishes of the child as to his/her custody and living arrangements;
3. The interaction of the child with his/her parents, brothers and sisters, grandparents and any people living in the child's home;
4. The child's adjustment to his/her home, school and community;
5. The mental and physical health of all individuals involved;
6. How well each parent has in the past and continues to satisfy their parental rights and responsibilities with respect to their children;
7. Evidence of domestic violence; and
8. The criminal history of any party or adult member of a household, including guilty pleas, pleas of no contest and criminal convictions.

The Court will also consider the child's maturity. The Court will establish a visitation schedule that will allow the child to have frequent and meaningful contact with both parents unless that contact would endanger the child's physical health or emotional development. (See Title 13 of the Delaware Code, section 728 (a).)

- When writing down your allegations, you should list each point you want to make in its own **numbered paragraph**. This will make it easier for the Court and the Respondent(s) to understand why you think you should have visitation with the child. An example of numbered paragraphs can be found on the Sample Petition for Parental Visitation and the Sample Petition to Modify Visitation found at the end of this section (see pages 21 & 22).
- If you need more space to write, you may attach additional pages to the petition. Be sure to state on the petition that you have attached more pages, so the Court and the Respondent(s) will know to look for additional information.
- You must sign your Petition for Parental Visitation or Petition to Modify Visitation in the presence of a notary public or authorized Court staff.

Custody Separate Statement form. (*file the original and one copy for each Respondent*).

- Sample form may be found on page 24.
- The Custody Separate Statement explains to the Court a child's past and present living arrangements, so the Court can determine if it has authority to decide your petition. If all of the children have had the **same living arrangements as one another** for the past five years, then you may include all children on a single form. However, if the children have **lived apart** from each other sometime during the past five years, you must complete a separate form for each child. For example, if last year, one

child resided with you and another child resided with the other parent, it would be necessary to file two Custody Separate Statements, explaining where each child lived.

Information Sheet form. (*file the original*).

- Sample form may be found on page 27.
- This form provides the Court with general information about the parties that allows the Court to adequately notify the parties about upcoming proceedings and to maintain up-to-date records.

Required Form Prior to Mediation or First Court Appearance

Custody, Visitation and Guardianship Disclosure Report

- Sample form found on page 29.
- Prior to mediation, each party is required to fill out the Custody, Visitation and Guardianship Disclosure Report. Each party shall bring the completed form to mediation. If mediation is bypassed, each party must complete and exchange with the opposing party or attorney a Custody, Visitation, and Guardianship Disclosure Report at least 7 calendar days prior to the first court appearance additionally filing a copy of the Report with the Court at least 7 calendar days prior to the first court appearance.

BELOW ARE OPTIONAL FORMS

ONLY file the following forms if the situation applies to you.

Affidavit that a Party's Address is Unknown form. (*file the original and one copy*).

Sample form may be found on page 32.

ONLY file this form if you do **NOT** know where the Respondent(s) lives.

You must provide the Court with each Respondent's current address. If you do not know where the Respondent(s) currently lives, you must **try to locate** him or her. Ways to do this include talking to the Respondent's friends or relatives or checking the Internet. If, after looking for the Respondent(s), you cannot find his/her current address, you must complete this form. **Do not complete** this form until you have made an effort to locate the Respondent(s).

You must complete this form before you publish notice of the matter in the newspaper. Please see pages 17-19 for more information regarding Notice by Publication.

Consent Order-Custody, Visitation *(file one original)*

- Sample form may be found on page 33.
- File this document only if **you and the Respondent(s) have already agreed** on what the visitation should be.
- On this form you will describe for the Court which parent will have visitation with the child and what the visitation schedule will be.
- You and the Respondent must both sign and have notarized the Consent Order.
- Before you file the Consent Order, you and the Respondent(s) **may** have to meet with a court employee to review the terms of your agreement.

- Once you have filed your agreement with the Court, it will be forwarded to a Judge who will review your agreement. If the Judge finds that the agreement is in the best interest of the child, then he or she will sign the agreement and it will become a court order, called a **Consent Order**.

- Once the Judge signs the Consent Order, it is a court order and you and the Respondent MUST follow the terms of the Order. The Court will mail a copy of the signed order to you and the Respondent(s).

When describing the visitation schedule, be as **specific** as possible. Explain the places, dates and times that visitation will occur. Also, explain to the Court who will be responsible for driving the child to and from the visitations. You may want to avoid agreements that simply state that "visitation shall be by mutual agreement of the parties." While this may make it easier for you and the Respondent to reach an agreement now, it gives you no guidance in how visitation will occur should you and the Respondent be unable to reach a mutual agreement regarding visitation at a later date. It may be better to decide on the details of visitation now, rather than have to come back to Court to resolve your differences in the future.

Waiver of Rights under the Servicemembers' Civil Relief Act (*file the original and one copy*). **Complete this section ONLY if the Respondent IS in the military.**

- Sample form may be found on page 35.
- If the Respondent(s) is in the military, the Respondent(s) must file an Answer, an Affidavit of Appearance or **YOU** must have the Respondent(s) sign a Waiver of Rights under the Servicemembers' Civil Relief Act. If the Respondent(s) does not file one of these documents, you must file a **Motion to Appoint an Attorney**. You should start this process as soon as possible because it takes time. The Court will not schedule your visitation hearing until you complete this process.

BE SPECIFIC WHEN COMPLETING THE FORMS and make sure you address **ALL** of the areas explained on pages 10 & 11 in your petition. When you complete a form, write in blue or black ink **AND** write neatly.

File the forms at the Family Court **in the County where the child(ren) currently lives**. If the child does not currently live in Delaware, you should talk to an attorney before filing to make sure the Delaware Family Court is the right Court to hear your case and to find out in which state and county you should file.

- In Kent and Sussex Counties you may file your papers at the Resource Centers on the first floor of the Family Court buildings.
- In New Castle County, you may file your papers at the Resource Center on Lower Level 1 of the Leonard L. Williams Justice Center.
- If you file your papers by mail, the addresses for each courthouse are available on the Family Court website. The Court does **NOT** accept filings that are faxed.

FILING BY EMAIL

You may also file your petition and required forms by email. The required forms are those referenced beginning on page 10 in this packet.
To file by email, you must send the petition and required forms to:
FC_CustodyVisitation@delaware.gov
For more information on filing by email, please review the Civil Filing by Email FAQ: https://courts.delaware.gov/family/faqs

FILING FEES

A filing fee is charged for each petition that is filed. To find out what the filing fee is, you can look at the Family Court website or go to the Family Court Resource Centers. **If filing in person**, the filing fee can be paid in cash, by credit card, by check or by money order made payable to "Family Court." **If you are filing by email**, you may only pay by credit card. Family Court staff will call you for credit card information. It is important that you include your phone number in the email communication to the Court. **Your petition will not be considered filed until the filing fee is paid**. If you are unable to pay by credit card, you may file by mail enclosing a check or money order with your petition. **If you are filing by mail**, you may only pay by check or money order. There are additional costs if you must publish notice of this action. (See page 18 for more information of when publication is necessary.)

Can the fee sometimes be waived?

You may be able to have the filing fees waived by the Court if your financial situation makes it difficult for you to pay the costs. If you are indigent, fill out an Affidavit in support of Application to Proceed In Forma Pauperis (fee waiver). Form 257P. This is a detailed financial information form, which requires supporting documentation of your financial situation.

ADDITIONAL INSTRUCTIONS FOR SECTION 1

SERVICE OF PROCESS

Each Respondent **must receive** a copy of the Petition for Parental Visitation or Petition to Modify Visitation. The delivery of the petition and any other forms you file is called **Service of Process**. The way that you accomplish Service of Process depends on how much information you can provide the Court about where the Respondent(s) lives. Determine from the following options how Service of Process should be accomplished in your case.

- **The Respondent Lives in Delaware and You Know His/Her Address**

  If the Respondent lives in Delaware **AND** you know his/her address, a **Process Server** (someone whose job involves delivering Court papers) will give a copy of your petition and other papers to the Respondent(s). This is called **Personal Service**. You do not need to fill out any additional paperwork.

- **The Respondent Does Not Live in Delaware and You Know His/Her Address**

  If a Respondent(s) does **NOT** live in Delaware **AND** you know the Respondent's address, the Court will mail your papers *via* certified mail, return receipt requested, to the Respondent(s). If delivery of the certified mail is unsuccessful, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent(s) lives. This is referred to as **Service of Process by Mail and Publication**. You must also complete an Affidavit that Address is Unknown form (see page 14). The Court will notify you by mail if you need to publish notice in the newspaper.

- **You Do Not Know Where the Respondent Lives or Works**

  If you do **NOT** know where a Respondent lives or works and, therefore, the Process Server cannot deliver your petition to that Respondent, **YOU** must publish **AT YOUR EXPENSE** a legal notice of your petition in an approved newspaper in the county and state where the Respondent's last known address was located. You must also complete an Affidavit that Address is Unknown form (see page 14).

PUBLICATION

- Instructions on how to publish notice of a court action are available in the Resource Centers. It is important to carefully follow the instructions for publication. If you do not properly publish the notice, your Petition for Parental Visitation or Petition to Modify Visitation could be dismissed.
- You must publish the notice **in the county where the Respondent(s) resides or in the county where the Respondent's last known address was located.** You are responsible for contacting the newspaper and paying the necessary publication fee to the newspaper.
- If you must publish the notice, **YOU** must provide **PROOF** to the Court that you published the notice. If the Court does **NOT** receive satisfactory proof of publication **WITHIN 30 DAYS** from the date you filed your petition, the Court may dismiss your case and you will have to start all over again, including paying another filing fee.
- You may publish in the following **approved Delaware newspapers** depending on where the Respondent(s) resides.
  - **New Castle County**
    News Journal
    950 W. Basin Road
    New Castle, Delaware 19720
    (302) 324-2500

  - **Kent County**
    Delaware State News
    421 Webb's Lane
    Dover, Delaware 19903
    (302) 674-3600

- **Sussex County**
  Sussex Countian
  P.O. Box 40 (13 South Front Street)
  Georgetown, Delaware 19947
  (302) 855-7400

➢ If you must publish in an out-of-state newspaper, you should select a newspaper that is widely distributed in the area where the Respondent(s) lives (or last lived if you do not know the address) **AND** the newspaper should be one which the Respondent(s) would most likely read.

THE ANSWER

➢ Once the Respondent(s) has been served with the Petition for Parental Visitation or Petition to Modify Visitation, each Respondent(s) has **20 days** from the date of service (the date the court papers are delivered to the Respondent(s)) to respond by filing an **Answer** to your petition. If there is more than one Respondent in your case, each Respondent must file his/her own separate Answer. You should receive a copy of the Respondent's Answer in the mail.

➢ On the Answer to your petition, the Respondent(s) must **admit** (agree with) or **deny** (disagree with) each of the statements you made in your petition. The Respondent(s) may explain why he/she disagrees with the statement.

VISITATION AND CHILD SUPPORT

- 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.
- For more information on the obligation to pay child support, please see the Frequently Asked Questions About Child Support Packet, or contact the Division of Child Support Services or an attorney.

SECTION 2 BEGINS AFTER THE SAMPLE FORMS FOR SECTION 1.

***Each sample form may list information from individual cases and not all parties will match.**

YOU SHOULD BEGIN SECTION 2 ONCE YOU HAVE FILED THE FORMS IN SECTION 1.

Form 350
Rev 10/11

Check the county in which you are filing.

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

PETITION FOR PARENTAL VISITATION

Petitioner		*Respondent*		
Name Anne C. Smith	D.O. B. 2/3/1964	Name John D. Smith	D.O.B. 7/13/1965	File Number CK14-12111
Street Address 101 Oak Street		Street Address 490 Pine Street		
P.O. Box Number Apts. #123		P.O. Box Number		Petition Number 14-42301
City/State/Zip Code Dover, DE 19901		City/State/Zip Code Wilmington, DE 19801		
Attorney Name N/A		Attorney Name N/A		
Interpreter needed? ☐ ' es ☒ No Language		Interpreter needed? ☐ Yes ☒ No Language		

IN THE INTEREST OF the following child(ren):

Name	Date of Birth	Name	Date of Birth
Doug A Smith	10/14/2010	Mary J Smith	4/17/2013
Name	Date of Birth	Name	Date of Birth
Name	Date of Birth	Name	Date of Birth

The said child(ren) live with (Name): John D. Smith
Relationship to child(ren): Father

490 Pine Street	Wilmington	DE	19801
(STREET ADDRESS)	(CITY)	(STATE)	(ZIP CODE)

Petitioner alleges the following facts: (Please list in consecutively numbered paragraphs. Attach additional pages if needed.)

1. Since our separation, the children have been living full time with their Father.
2. Mother visitation is sporadic whenever Father's schedule allows.

State the current visitation allegations.

Petitioner requests that Visitation be as follows: (Attach additional pages if needed.)

1. Mother would like set visitation schedule of every other weekend. Mother will retrieve children from school every other Friday afternoon, and the children will remain in the care of the mother until 7:00pm Sunday evening.

Describe the visitation schedule you want to have in detail.

WHEREFORE, Petitioner prays that a Summons issue to Respondent and that the Court grant the relief prayed for or such relief as may be just.

SWORN TO AND SUBSCRIBED before me this date,

Only sign in the presence of a notary or court staff

March 17, 2014

Anne C. Smith

Petitioner/Attorney

Donna King

Notary Public/Clerk of Court

Form 351
Rev 10/11

The Family Court of the State of Delaware

Check the county in which you are filing.

In and For ☐ New Castle ☒ Kent ☐ Sussex County

PETITION TO MODIFY VISITATION

Use this form to modify a current visitation order.

Petitioner		*Respondent*	
Name Anne C. Smith	D.O.B 2/3/1964	Name John D. Smith	D.O.B. 7/13/1965
Street Address 101 Oak Street		Street Address 490 Pine Street	
P.O. Box Number Apt. #123		P.O. Box Number	
City/State/Zip Code Dover, DE 19901		City/State/Zip Code Wilmington, DE 19801	
Attorney Name N/A		Attorney Name N/A	
Interpreter needed? ☐ Yes ☒ No Language		Interpreter needed? ☐ Yes ☒ No Language	

File Number
CK14-12111
Petition Number
14-42301

2nd Petitioner (if any)		*2nd Respondent (if any)*	
Name	D.O.B	Name	D.O.B.
Street Address		Street Address	
P.O. Box Number		P.O. Box Number	
City/State/Zip Code		City/State/Zip Code	
Attorney Name Interpreter needed? ☐ Yes ☐ No Language		Attorney Name Interpreter needed? ☐ Yes ☐ No Language	

IN THE INTEREST OF the following child(ren):

Name	Date of Birth	Name	Date of Birth
Doug A Smith	10/14/2010	Mary J. Smith	4/17/2013
Name	Date of Birth	Name	Date of Birth
Name	Date of Birth	Name	Date of Birth

The said child(ren) live with (Name): John D. Smith

Relationship to child(ren): Father

490 Pine Street	Wilmington	DE	19801
(STREET ADDRESS)	(CITY)	(STATE)	(ZIP CODE)

Petitioner requests the Court enter an order modifying a prior visitation order of this Court issued by

Judge Howell, dated 3/20/2014, and in support there of alleges the following
(Judicial Officer) (MM/DD/YY)

circumstances. (Please list in consecutively numbered paragraphs):

1. Father has taken a new job that requires him to work every Saturday and Sunday. Father is currently paying for child care on the weekends that Mother doesn't have visitation.

List the allegations to support the Petitioners request for a modification of current order of visitation.

Petitioner requests that Visitation be as follows:

1. It is in the best interest of the children to have visitation with Mother every weekend instead of being left with a babysitter. Mother will retrieve children from school each Friday afternoon, and the children will remain in the care of the mother until 7:00pm Sunday evening.

List the request for modification to the current order.

WHEREFORE, Petitioner prays that a Summons issue to Respondent and that the Court grant relief prayed for or such other relief as may be just.

SWORN TO AND SUBSCRIBED before me this date,

Only sign in the presence of a notary or court staff.

5/1/2014

Anne C Smith
Petitioner/Attorney

Kathy Intaker
Clerk of Court/Notary Public

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

CUSTODY SEPARATE STATEMENT

Petitioner	*v.* *Respondent*	
Name	*Name*	File Number
Anne C. Smith	John D. Smith	CK14-1211

1. What type of petition are you filing? FILL IN PETITION TYPE (E.g. Petition for Custody)

2. Who is the child(ren) named in your petition? (*Please provide full name and date of birth*)

Child's Name	Date of Birth (mm/dd/yyyy)	Place of Birth (City, State)
Doug A. Smith	10/15/2010	Dover, DE
Mary J. Smith	4/22/2013	Dover, DE

3. Have all the children listed above continually resided with one another? ☒ Yes ☐ No

If you answered "No," the children have not continually resided with one another; please complete a Custody Separate Statement for each child.

CURRENT ADDRESS

Address where child(ren) ***currently reside(s)*** ***** If the address where the child(ren) currently resides is a confidential address in Family Court, DO NOT provide the address on this form. Instead, please mark the fields as CONFIDENTIAL.***			*Date(s) Child(ren) lived here* 1/28/2016 to present
Address 101 Oak Street, Apt 123	*City* Dover	*State* DE	*Zip* 19901
People living in the household with the child(ren):	*Date of Birth*	*Relationship to child(ren):*	
Anne C. Smith	12/26/1985	Mother	
Mary A. White	4/28/1959	Grandmother	

4. During the **past five years**, where has/have the child(ren) lived? *List addresses from the most recent to the oldest. If the child(ren) is under the age of five years old, end with the first address where the child lived.*

PRIOR ADDRESS

Address where child(ren) previously resided	*City*	*State*	*Zip Code*
10 Clayton Street	New Castle	DE	19720
Date(s) child(ren) lived there	*Name of person(s) child(ren) lived with*	*Relationship to child(ren)*	
2/14/2014 to 1/27/2016	Anne C. Smith & Mary A. White	Mother and Grandmother	
Person's current address	*City*	*State*	*Zip Code*
101 Oak Street, Apt 123	Dover	DE	19901

PRIOR ADDRESS

Address where child(ren) previously resided	*City*	*State*	*Zip Code*
490 Pine Street	Wilmington	DE	19899
Date(s) child(ren) lived there	*Name of person(s) child(ren) lived with*	*Relationship to child(ren)*	
10/1/2010 to 2/14/2014	John D. Smith and Anne C. Smith	Father Mother	
Person's current address	*City*	*State*	*Zip Code*
Unknown (John Smith) 101 Oak Street, Apt 123	Dover	DE	19901

PRIOR ADDRESS	*Address where child(ren) previously resided*	*City*	*State*	*Zip Code*
	Date(s) child(ren) lived there to	*Name of person(s) child(ren) lived with*	*Relationship to child(ren)*	
	Person's current address	*City*	*State*	*Zip Code*
PRIOR ADDRESS	*Address where child(ren) previously resided*	*City*	*State*	*Zip Code*
	Date(s) child(ren) lived there to	*Name of person(s) child(ren) lived with*	*Relationship to child(ren)*	
	Person's current address	*City*	*State*	*Zip Code*

5. Check **ONE** and complete as directed.

☒ No one other than the parties have physical custody, legal custody or visitation rights with the child(ren).

☐ *A person(s) other than the parties have physical custody, legal custody or visitation rights with the child(ren). If you check this box, complete the information below. Attach additional sheets if necessary.*

PERSON 1	*Name of person(s) with physical custody, legal custody or visitation*		*Relationship to child(ren)*	
	Person's current address	*City*	*State*	*Zip Code*
PERSON 2	*Name of person(s) with physical custody, legal custody or visitation*		*Relationship to child(ren)*	
	Person's current address	*City*	*State*	*Zip Code*

6. Select all that apply and complete as directed.

☐ I have not been involved in any other court action for custody and/or visitation of this child(ren).

☒ I have been involved in another court action for custody and/or visitation of this child(ren). *If you check this box, complete the information below. Attach additional sheets if necessary.*

ACTION 1	*Type of Action (e.g. Custody, Visitation, Other)* Visitation	*Person (who filed the action)* John D. Smith		*State* DE
	Court Family Court	*Case Number* CK16-1122	*Date Filed* 10/2/2016	
	Result Visitation granted		*Date of Order* 12/15/2016	
ACTION 2	*Type of Action (e.g. Custody, Visitation, Other)*	*Person (who filed the action)*		*State*
	Court	*Case Number*	*Date Filed*	
	Result		*Date of Order*	
ACTION 3	*Type of Action (e.g. Custody, Visitation, Other)*	*Person (who filed the action)*		*State*
	Court	*Case Number*	*Date Filed*	
	Result		*Date of Order*	

7. Check **ONE** and complete as directed.

☐ I do not know of any other court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship, Adoption or Paternity involving myself, the other party or the child(ren) that could affect this petition.

☒ I, the other party or the child(ren) have been and/or are currently involved in another court action such as, Protection From Abuse, Termination of Parental Rights, Guardianship or Adoption, that could affect this petition. *If you check this box, complete the information below. Attach additional sheets if necessary.*

ACTION 1	*Type of Action (e.g. PFA, TPR, Guardianship, Other)* PFA	*Person (who filed the action)* Anne C. Smith		*State* DE
	Court Family Court	*Case Number* CK14-12111	*Date Filed* 8/11/2017	
ACTION 2	*Type of Action(e.g. PFA, TPR, Guardianship, Other)*	*Person (who filed the action)*		*State*
	Court	*Case Number*	*Date Filed*	

STOP — Sign in the presence of a notary or court staff.

Anne C. Smith
Petitioner

Sworn to and subscribed before me this 18th day of September, 2017.

STOP — Signed by notary or court staff.

Donna King
Clerk of Court/Notary Public

Form 240

The Family Court of the State of Delaware

INFORMATION SHEET - **PLEASE PRINT**

Fill in the date you file the form.

Date: 12/13/2017 File No.: CN17-99999

If you know your case file number, put it; if not, leave blank.

Please fill in A to K pertaining to you the Applicant/Petitioner. (For additional petitioners use additional sheets)

Each Petitioner must complete a separate form

A. Name: Anne C. Smith

B. Address: 101 Oak Street, Apartment #123

City/State/Zip: Dover, DE 19901

C. Phone – Home: (302) 555-1111 Work: (302) 555-9999 Cell: (302) 999-8888

D. Employer & Address: ABC Child Care Center
500 Pine Street
Dover, DE 19904

Hours/Shift 7:30 to 4:30 Monday-Friday

E. Social Security No.: 000-00-0000 F. Date of Birth: 2/3/1986

G. Place of Birth (City & State): Wilmington, DE

H. Sex: F Race: White Height: 5'4" Weight: 135 lbs Hair: Blond Eyes: Brown

Marks/Scars/Tattoos: None

I. Type of motor vehicle operated by you: 2010 Honda Accord

J. Driver's License No.: 9999999 State of Issue: DE Expiration Date: 2/3/2020

K. Your relationship to the Defendant/Respondent: Spouse

L. Attorney: None

Entering your email address on this line authorizes the Court to send you notices by email. If you choose this option, you will not receive notices in regular mail.

☒ I authorize Family Court to deliver court orders in my case(s) to my email address instead of to my mailing address. My email address is: Anne.C.Smith@example.com .

*Please note that if you provide an email address, all orders in your pending civil cases in Family Court will be sent in an encrypted email via Egress to the email address provided and will not be mailed to your physical address. For information on how to receive encrypted emails through Egress, please visit https://judicial.state.de.us/courtdox/Download.aspx?id=94888&court=readonly.

Please fill out the information below in reference to the child(ren) who are involved.

Children

Name	Relationship	Sex	Race	D.O.B.	SSN	Birthplace City & State
Douglas A. Harding	Nephew	M	White	10/14/2012	987-65-4321	Newark, DE

OVER

Please fill in L to Y pertaining to the Defendant/Respondent. (For additional respondents use additional sheets)

M. Defendant/Respondent is a: (Check One) ☒ **ADULT** ☐ **JUVENILE**

N. Name: Michelle Jones

You must complete a separate form for each Respondent.

O. Address: 490 Pine Street

City/State/Zip: Dover, DE 19901

P. Phone – Home: (302) 333-3333 Work: (302) 222-2222 Cell: (302) 111-1111

Q. Employer & Address: XYZ Corporation
67 Walnut Avenue
Dover, DE 19901

Hours/Shift 9:00 AM to 5:00 PM, Monday-Friday

R. Social Security No.: 888-88-8888 S. Date of Birth: 7/13/1991

T. Place of Birth (City & State): Wilmington, DE

U. Relationship to Child: ☐ Not Applicable ☒ Mother ☐ Father ☐ Relative ☐ Non-Relative

☐ Other (Please Describe)

V. Sex: F Race: White Height: 5'4" Weight: 140 lbs Hair: Black Eyes: Brown

Marks/Scars/Tattoos: Tattoo of a heart on right shoulder

W. Driver's License State & No.: DE 1111111

X. Type of vehicle operated by Defendant/Respondent: 2009 Chevy Impala

Y. Parent's Name (if a juvenile):

Z. Time when Respondent is usually home: 7:00 PM to 6:30 AM, Monday-Friday; mornings on weekends

List places where the Respondent spends time other than at home or

AA. ~~Additional~~ information about Respondent that may aid the process server in locating him/her to serve petition:

If you are unable to locate the Respondent at her place of residence or her place of employment, she spends a lot of time at her brother's house, which is located at 775 Spruce Lane, Dover, DE 19901.

Write directions to each address listed on this form to make sure that the process server can locate the Respondent.

DIRECTIONS TO RESPONDENT'S RESIDENCE

Home: Go West on 8th Street until you reach Pine Street. Turn right and go 3 and one-half blocks. The Respondent's house is on the right and is white with blue shutters.

Work: Go North on Route 13 and take the first right onto Cherry Drive. Go about a mile and a half and turn left onto Walnut Avenue. XYZ Corporation is on your left.

Brother's Residence: Go two blocks past Respondent's home to 10th Street. Turn left and go one block to Spruce Lane. Turn right. It is the second house on the right. The house is green.

SAMPLE Form 364
Rev 5/19

Check the county in which you are filing

The Family Court of the State of Delaware

In and For ☐ New Castle County ☒ Kent County ☐ Sussex County

CUSTODY, VISITATION, AND GUARDIANSHIP DISCLOSURE REPORT

Name: Anne C. Smith
Relationship to the child(ren): Mother
Date of Birth: 7/13/1991
Address: 490 Pine Street
Dover, DE 19901

File Number: CN17-99999
Petition Number: 19-99999
Home Phone Number: (302) 333-3333
Work Phone Number: (302) 222-2222
Cell Phone Number: (302) 111-1111

Names and dates of birth of any child(ren) involved in this proceeding:

1. Douglas A. Harding DOB: 10/14/2012
2. DOB:
3. DOB:
4. DOB:
5. DOB:
6. DOB:

Names and dates of birth of all persons living in your household, and relationship to the child (ren):

1. Nicole C. Smith DOB: 1/14/1991 Relationship to Child(ren): Aunt
2. DOB: Relationship to Child ren):
3. DOB: Relationship to Child(ren):
4. DOB: Relationship to Child(ren):
5. DOB: Relationship to Child(ren):
6. DOB: Relationship to Child(ren):

1. What contact schedule do you have now with the child(ren) noting how often the child(ren) live(s) with you or visit(s) with you? The children are in my household on average 8 overnights a month.

2. This schedule is by: ☐ court order or ☒ by agreement

3. What contact schedule are you requesting for yourself with the child(ren)?
   - ☒ Primary residency, with visitation with the other party **OR**
   - ☐ Shared Placement
   - ☐ Visitation, with primary residency with the other party

If you want primary residency, what visitation schedule do you want the visiting party to have with the child(ren)?
In a safe environment John D. Smith may have him on the weekends or as the court deems fit.

If you want shared residency, how would you like to share the time with the other party?
N/A

If you are seeking visitation or a change in visitation, what visitation schedule are your requesting?
N/A

SAMPLE FORM

4. **Legal custody** refers to a parent's right to make decisions regarding the child, not where the child primarily lives. **Joint legal custody** means that the parents share the duties and responsibilities of raising the child and are expected to share information and decide major issues about the child together. **Sole legal custody** means that one parent has decision-making authority although both parents have access to the child and the right to request information about the child.

   ☒ **Requesting Joint Legal Custody**
   ☐ **Requesting Sole Legal Custody**

   If you are requesting sole legal custody, explain why.
   N/A

5. Where do you work and what is your work schedule? XYZ Corporation
   9:00 AM to 5:00 PM, Monday-Friday

6. How many miles do you live from the other party? 15
7. How many miles do you live from the child(ren)'s school? 5
8. In which school district do you live? Capital
9. How many miles does the other party live from the child(ren)'s school? 20
10. In what school district does the other party live? Smyrna

11. Do you have any history of drug or alcohol abuse? ☐ Yes ☒ No
    If yes, describe:

12. Does the other party have any history of drug or alcohol abuse? ☒ Yes ☐ No
    If yes, describe: Previously marijuana, not 100% certain if he still does.

13. Do you have any concerns about your physical or mental health? ☐ Yes ☒ No
    If yes, describe concerns:

14. Do you have any concerns about the physical or mental health of the child(ren)? ☒ Yes ☐ No
    If yes, describe concerns: I just want to make sure wherever Douglas will be it's a safe environment without any dangerous conditions.

15. Do you have any concerns about the physical or mental health of the other party? ☐ Yes ☒ No
    If yes, describe concerns:

16. List all of your criminal convictions, including DUIs. The Court is required to check criminal histories of all parties and members of the household: None.

17. List all criminal convictions of the other party of which you are aware, including DUIs:
    Marijuana possession, speeding.

18. Do you intend to offer evidence of domestic violence at trial?
    Not at this time.

SAMPLE FORM

19. Have you or the other party ever been investigated by the Division of Family Services or a child welfare agency in another state? ☐ Yes ☒ No

If yes, explain: _____

20. Do you or the other party have a finding of child abuse or neglect by the Division of Family Services or a child welfare agency in another state? ☐ Yes ☒ No

If yes, explain: _____

21. Has the child(ren) ever lived with anyone other than you or the other party? ☒ Yes ☐ No

If yes, with whom did the child(ren) live and what were the dates: Maternal grandmother November-December 2012

Any other information that you believe is relevant to this proceeding: I have the financial ability, maturity, and help to be able to care for Douglas whereas the opposing party in my belief is not quite there yet.

There is a duty to supplement and/or update this report. As such, parties are free to amend without leave of the Court.

3/17/2019	Anne C. Smith	*Anne C. Smith*
Date	Print Name	Signature
	Sample Attorney, Esq.	*Sample Attorney*
	Attorney Print Name	Attorney Signature

Only sign this form in the presence of a notary or court staff

Sworn to and subscribed before me this 17th day of March , 2019

Marianne Notary	*Ms. Marianne Notary*	3/17/2019
Notary / Clerk of Court (Print)	Notary / Clerk of Court (Sign)	Date

This Affidavit of Exchange must be signed in the presence of a notary or court staff

Affidavit of Exchange

This Disclosure Report must be exchanged with the other party.
Please check one of the following boxes indicating how this exchange occurred.

☒ I affirm that this Custody, Visitation, and Guardianship Disclosure Report was filed with my petition and was therefore served by the Court upon the other party.

☐ I affirm that this Custody, Visitation, and Guardianship Disclosure Report was filed with the Court after the filing of the petition. I further affirm that a true and correct copy of this Disclosure Report was placed in the U.S. mail on the _____ day of _____ , _____ and sent to the other party or attorney at the address listed on the petition, first class postage pre-paid.

☐ I affirm that this Custody, Visitation, and Guardianship Disclosure Report was brought to the Family Court mediation conference on the _____ day of _____ , _____ with a true and correct copy given to the other party.

3/17/2014	Anne C. Smith	*Anne C. Smith*
Date	Print Name	Signature
	Sample Attorney, Esq.	*Sample Attorney*
	Attorney Print Name	Attorney Signature

Sworn to and subscribed before me this 17th day of March , 2019

Marianne Notary	*Ms. Marianne Notary*	3/17/2019
Notary / Clerk of Court (Print)	Notary / Clerk of Court (Sign)	Date

SAMPLE FORM

Form 241
Rev 6/13

The Family Court of the State of Delaware

Check the county in which you are filing.

In and For ☐ New Castle ☒ Kent ☐ Sussex County

AFFIDAVIT THAT A PARTY'S ADDRESS IS UNKNOWN

Petitioner	Respondent
Name: Anne C. Smith	Name: John D. Smith

File Number
CK14-12111
Petition Number
14-42301

State of Delaware)
)
Kent County)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this 17th day of March, 2014, personally appeared before me, a Notary Public for the State and County aforesaid, Anne C. Smith ("Affiant"), who, being by me duly sworn according to law did depose and say:

The person filling out the form is the "Affiant" and his/her name goes here.

1. My name is Anne C. Smith

2. I do not know the current address and/or telephone number, nor do I know anyone who could provide me with the current address and/or telephone number of John D. Smith. I have contacted his/her:

   (Please check as appropriate) ☐ Parent ☐ Spouse ☐ Employer ☒ Other: Brother

3. His/Her last known address and telephone number were:

Street Address (including Apt)	
490 Pine Street	
P.O. Box Number	
City/State/Zip Code Wilmington, DE 19801	
Phone Number 302-555-1234	Information as of: (date) 1/1/14

Fill in the date that the Respondent last lived at the address.

4. I have had no contact with him/her since 1/1/14.
5. I have been informed of my responsibility to accomplish publication, unless the Court has approved my application to proceed In Forma Pauperis, and my failure to do so will result in the petition being dismissed after 30 days.
6. The information contained herein is true and correct to the best of my knowledge and belief.

Only sign in the presence of a notary or court staff

Anne C. Smith
Affiant

Sworn to subscribed before me this 17 day of March, 2014

Mary K Notary
Clerk of Court/ Notary Public

The Family Court of the State of Delaware

In and For ☐ New Castle X Kent ☐ Sussex County

Check the county in which

CONSENT ORDER – CUSTODY, VISITATION

Petitioner *v. Respondent*

Name Anne C. Smith	Name John D. Smith	File Number CK14-12111
Street Address 10 Oak Street	Street Address 490 Pine Street	
Apt. or P.O.Box Number Apt. #123	Apt. or P.O.Box Number	Petition Number 14-42301
City / State / Zip Code Dover, DE 19901	City / State / Zip Code Wilmington, DE 19899	
Attorney Name and Phone Number N/A	Attorney Name and Phone Number N/A	

IN THE INTEREST OF the following child(ren):

Name (Child #1)	Date of Birth	Name (Child #2)	Date of Birth
Doug A. Smith	10/14/10	Mary J. Smith	4/17/13
Name (Child #3)	Date of Birth	Name (Child #4)	Date of Birth
Name (Child #5)	Date of Birth	Name (Child #6)	Date of Birth

The parties in the above-entitled case hereby agree upon the following arrangement and do consent to the entry of an Order providing for the same:

Check which type of custody you have agreed upon. If you check Joint Custody, you must list both parents on the next line. If you check Sole Custody list only one of the parents on the next line.

Type of Custody: X Joint Custody ☐ Sole Custody

Custody Awarded to: Anne C. Smith and John D. Smith

Physical Placement with: Anne C. Smith

Relationship: Mother

Fill in the name of the parent that the child is going to live with most of the time.

Address: 10 Oak Street, Apt. #123
Dover, DE 19901

Visitation Awarded to: John D. Smith

Relationship: Father

Address: 490 Pine Street
Wilmington, DE 19899

OVER

Describe the visitation schedule you have agreed on in detail.

Visitation shall be as follows:

Father shall have visitation with the children every other weekend beginning the first weekend in August. Father will pick the children up from school on Friday afternoon and will have them with him until 4 p.m. on Sunday afternoon. Mother and Father will meet at the McDonald's in Middletown to exchange the children at 4pm on Sunday afternoon. Both parties will try to be on time, but if one is running late, he/she will call the other's cell phone and let them know of the delay.

Father shall have visitation with the children every Wednesday evening from 6:30 to 8:30 p.m. Father will pick the children up at Mother's house and will drop them off at Mother's house. If there is a school activity on Wednesday evening so that the child(ren) cannot visit with Father, then Tuesday evening may be substituted.

Father and Mother will follow the visitation schedule set forth in the Standard Visitation Guidelines regarding holidays except for Christmas. Mother will have the holidays in Column 1on odd years and the holidays in Column 2 on even years. Father will have the holidays in Column 1 on even years and the holidays in Column 2 on odd years. The children will spend all of Christmas Eve with Mother every year and all of Christmas Day with Father every year. Mother will drop the children off at Father's home at 9pm on Christmas Eve and Father will keep the children until 4pm the afternoon before school resumes after Winter Break. Father will drop the children off at Mother's house that afternoon.

Mother will have the children for all of Spring Break.

Affidavit of Consent

Be it remembered that on _____July 20, 2014_____, the above named petitioner and respondent personally came before me, the subscriber, a Notary Public for the State and County listed below, who being duly sworn to law did depose and say: I, the undersigned hereby agree upon the following custodial/visitation agreement for the above-named child(ren). I have signed this consent agreement voluntarily and of my own free will.
We hereby waive our right to a Review of a Commissioner's Order because this Order is entered pursuant to this Voluntary Agreement

Signature in presence of a notary or court staff.

STOP

Anne C. Smith	*Edward Jal*
Petitioner	Respondent
State of Delaware	State of Delaware
County of Kent	County of Kent
Sworn to subscribed before me:	Sworn to subscribed before me:
Donna King	*Donna King*
Mediator/Notary Public	Mediator/Notary Public

STOP

Signed by notary or court staff.

SWORN TO AND SUBSCRIBED
before me this date: _____

STOP

Dated & Signed by the Judge/Commissioner.

Judge/Commissioner

Form 420
Rev 1/12

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the County in which you are filing.

Anne C. Smith Petitioner,	)	File No.: CK14-12111
and	)	
John D. Smith Respondent,	)	Petition No.: 04-36000

WAIVER OF RIGHTS UNDER THE "SERVICEMEMBERS CIVIL RELIEF ACT"

STATE OF DELAWARE)
) ss.
Kent COUNTY)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, March 25, 2014, personally appeared before me, a Notary Public for the State of Delaware in the County declared above, John D. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Respondent in the above captioned case;
2. That Affiant is active duty in the United States military; and
3. The Affiant waives his/her rights under the "Servicemembers Civil Relief Act" and in doing so acknowledges that he/she, or his/her attorney, will be required to timely respond to and appear at all legal proceedings associated with the above captioned case.

Only sign this form in the presence of a notary or court staff.

The "Affiant" is the Respondent. ONLY the Respondent may complete this form. If you are the Petitioner in this proceeding, you may not complete this form.

John D. Smith
Respondent ("Affiant")

SWORN TO AND SUBSCRIBED before me this date, *March 25, 2014*

Ms. Marianne Notary
Notary Public or Clerk of Court

Section 2

PARENT EDUCATION CLASSES

IF YOU HAVE NOT ALREADY DONE SO, you **MUST** file the certificate below:

Certificate(s) of Completion of Parent Education Class *(file original(s))*

- All parents with children up to the age of 17 must take a Parent Education Class. A listing of available classes is available at the Family Court Resource Centers. Once you have completed the Parent Education Class, a Certificate(s) of Completion of Parent Education Class will be given to you.
- You must file the **ORIGINAL** Certificate(s) of Completion of Parent Education Class with the Family Court prior to your final hearing. If you have already taken the class, an original Certificate(s) of Completion should be in your file.
- Be aware, if you fail to attend the Parent Education Classes, or do not file your Certificate of Completion with the Court, the Court will take your failure to do so into consideration when deciding the case. The Court may also dismiss your case based on a failure to attend the class.
- You should register for the Parent Education Classes **AS SOON AS POSSIBLE** because the classes tend to fill quickly and you may be placed on a waiting list.

SECTION 3 DESCRIBES WHAT HAPPENS NEXT.

Section 3

MEDIATION

After all of the Respondents have been served with the Petition for Parental 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**.

- The Court will **NOT** schedule Mediation if there is an active **No Contact Order** involving you and the Respondent(s) or there has been a previous finding of domestic violence such as the following:
  - A Protection from Abuse Order, **OR**
  - An adjudication of criminal charges.

  If there is an active No Contact Order involving you and the Respondent(s), you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- The Court will **NOT** schedule mediation if one of the parties is a sex offender as defined by Delaware law. If one of the parties is a sex offender as defined by Delaware law, you will **NOT** attend Mediation and the Court will schedule a Court Hearing before a Judge.
- Mediation is **NOT** a Court Hearing. At Mediation, a Mediator (a neutral third party) will **try to help** you and the Respondent(s) reach an agreement about visitation. The Mediator will ask you and the other party to tell how you both think the matter should be resolved and will work with you to find a solution that is agreeable to both of you. In other words, the Mediator is there to help you and the other party work together in deciding what arrangement is best for your child. Therefore, try your best to come with a “spirit of cooperation.”

CONSENT ORDERS

- If, at the end of Mediation, you and the other party reach an agreement, the Mediator will type your agreement into a document and you and the Respondent(s) will sign the agreement. The Mediator will also sign the agreement. Then, you will be allowed to leave and the Mediator will give your signed agreement to a Judge. The Judge will decide whether your agreement should become a court order**,** called a **Consent Order.**
- If the Judge decides your agreement should become a Consent Order, the Judge will sign the agreement and the Consent Order will be mailed to you and the Respondent(s). You will **NOT** have to go to a Hearing with a Judge.
- Once a Consent Order is signed by a Judge, it is a court order and you and the Respondent(s) **MUST** follow the terms of the Order.

TEMPORARY ORDERS

- If you filed a **Petition for Parental Visitation** and you and the other party do **NOT** reach an agreement at Mediation, the **Mediator** will suggest a **Temporary (Interim) Order** for a Judge to sign. A temporary order is entered so both parents can have contact with the child while the parties are waiting for their hearing to be scheduled.
- A Judge will review the suggested Order and will either sign it as an Interim Order or will change some of the terms before signing it as an Interim Order. The case will then be scheduled for a Court Hearing. The Interim Order will remain in effect until another Court Order is issued. You and the Respondent(s) **MUST** follow the terms of the Interim Order until that time.

- If you filed a **Petition to Modify Visitation**, then you will not receive a temporary order. The current visitation order will remain

until you and the Respondent(s) can have a Court Hearing before a Judge.

- As an alternative, **you and the other party** may reach a temporary agreement at Mediation. This agreement would be made with the intent that it should only last until the Judge makes a decision after your Court Hearing. If you do this, the Mediator will type your temporary agreement into a document and you and the other party will sign the temporary agreement. The Mediator will also sign the temporary agreement. Thereafter, you will be allowed to leave and the Mediator will give your signed temporary agreement to a Judge. The Judge will decide whether your temporary agreement should become a court order**,** which is called an **Interim Consent Order**.

You should come to Mediation prepared to discuss how visitation should occur. You should review the Family Court's **Contact Guidelines** to get a general idea of visitation arrangements. 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 Contact Guidelines. At Mediation, you and the Respondent(s) can work together to establish a visitation schedule that works best for you, Respondent(s) and, **most importantly** your child.

Be realistic when asking for the terms of a visitation order. The law says that it is better for a child to have at least some contact with both parents unless that contact would endanger the child's physical health or significantly impair his or her emotional development. The focus is on what is in the **CHILD'S best interests**. Just because **YOU** do not want the other parent(s) to be involved in the child's life may not mean that is in your **CHILD'S** best interest.

Therefore, at Mediation, be prepared and try to work together and establish a visitation schedule that is in the best interest of the child.

IF YOU REACHED AN AGREEMENT AT MEDIATION, THIS IS THE *END* OF THE PACKET.
OTHERWISE, GO TO SECTION 4.

Section 4

HEARING WITH A JUDGE

SCHEDULING THE HEARING

A **Court Hearing** will be scheduled by the Court **ONLY** if:

- The Mediation was unsuccessful (no agreement or a temporary agreement was reached) **OR** Mediation was not required.

You do not need to file any additional paperwork to have your hearing scheduled. The Court will notify you when your hearing is scheduled, by mailing you a **Notice** to inform you of the time and date of the **Court Hearing.**

Judges may schedule a **case management conference** or a **pre-trial hearing**. The purpose of these proceedings is to discuss the status of your case prior to scheduling a full evidentiary hearing where you will present evidence and call witnesses.

If you cannot attend the scheduled hearing, you must file the following form:

Motion for Continuance *(file the original and mail one copy to each Respondent).*

- If, once you receive your Notice, you cannot attend the scheduled pre-trial or evidentiary hearing, you must contact the Court **IMMEDIATELY** by filing a **Motion for Continuance. DO NOT** call the Court. On this Motion, you must state **very specific reasons**

legal and unavoidable for needing to reschedule the hearing. You cannot request a continuance simply because it is not convenient for you to attend the hearing on the scheduled day. Before you file the Motion for Continuance, you must contact the Respondent(s) regarding the continuance and then **tell the Court in your motion how the Respondent(s) feels about the continuance**. Because the law is very strict when it comes to rescheduling, these Motions are not always granted.

- You will be notified by the Court if your Motion for Continuance has been granted. **UNLESS THE COURT GRANTS YOU A CONTINUANCE, YOU MUST APPEAR AT COURT THE DAY OF YOUR SCHEDULED HEARING**. If you fail to appear at the hearing, the Court may dismiss your Petition for Parental Visitation or Petition to Modify Visitation and you will have to start the process again by filing a new petition and paying another filing fee.

Complete the following form and bring it to Court with you on the day of your hearing.

- **Affidavit of Non-Military Service** form.
  - **ONLY** complete this form if the Respondent(s) is **NOT** in the military.
  - If there is more than one Respondent, you must complete a separate form for each person.

The Court Hearing is a Trial in front of a Judge. At the Court Hearing, you and the Respondent(s) will each be given an opportunity to tell your side of the case and ask witnesses questions. During the Court Hearing, the Judge expects you to follow a certain procedure. It is important that you are familiar with this procedure so you know what you are allowed to do, when you are allowed to talk, and how to tell your side of the story**.**

Family Court has developed a **Guide to Preparing for Your Court Hearing** that explains generally what the Court Hearing procedure is and should answer many of the questions you have about the procedure. It will be helpful to read this information before your scheduled hearing. This packet is available on the Family Court website and in the Resource Centers located in each courthouse.

At the hearing, it is up to **YOU** to prove to the Judge **WHY** it is in the child's best interest for the Court to grant you what you are requesting in your Petition for Parental Visitation or Petition to Modify Visitation. The best interest standard is explained on page 11 of this Instruction Packet. Review that information before the hearing, so you are prepared to present your case to the Court.

After both sides have presented all of their evidence, one of two things can happen. The Judge can **announce his/her decision** at the end of the hearing, in which case you will leave the Courthouse knowing what the visitation arrangement is **OR**, the Judge can **reserve decision**. When the Judge reserves decision, he/she considers all of the information presented during the hearing and issues a written order explaining the visitation arrangement sometime after the hearing. Regardless of how the Judge issues the order, you should receive a copy of the Judge's decision, or Court Order, in the mail.

Once the Court has entered a Visitation Order, you and the Respondent(s) should follow the terms of the Order. In other words you should do what the Order tells you to do. The Court will not enforce any agreements made by the parties that are not in a Court Order.

THIS IS THE END OF THE PARENT VISITATION INSTRUCTION PACKET.

Form 191
Rev 12/13

The Family Court of the State of Delaware

In and for ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

MOTION FOR CONTINUANCE

Petitioner	*Respondent*	
Name John D. Smith	Name Anne C. Smith	File Number CK14-12111
Street Address (include Apt) 490 Pine Street	Street Address (include Apt) 101 Oak Street	
P.O. Box Number	P.O. Box Number Apt. #123	Petition Number 14-42301
City/State/Zip Code Wilmington, DE 19801	City/State/Zip Code Dover, DE 19901	
Date of Birth 7/13/65	Date of Birth 2/3/64	
Attorney Name n/a	Attorney Name n/a	

Indicate here what the scheduled hearing is in reference to.

A PROCEEDING involving Visitation having been filed in this Court on March 4, 2014, Movant hereby moves the Court for a Continuance and, in support thereof, alleges the following facts:

Explain why you are unable to attend the scheduled hearing.

1. I cannot attend the Court Proceeding scheduled on 4/5/14 at 1:00pm due to:
   I am scheduled for surgery that day at 10:00am

   Documentation must be attached. If you have a conflict with another case in this or any other Court, you need to attach a copy of that notice.

2. I have contacted the opposing party regarding this continuance request and the following is their position:
   The Respondent agrees to reschedule

3. This case has been scheduled for a hearing 0 times previously.

SWORN TO AND SUBSCRIBED
before me this date,

March 4, 2014

Only sign in the presence of a notary or court staff

John D Smith
Movant/Attorney

Mariann Notary
Clerk of Court/ Notary Public

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on this date March 4, 2014, and sent to the other party or attorney at the address listed on the petition, being 101 Oak Street, Apt #123, Dover, DE 19901, first class postage pre-paid.

SWORN TO AND SUBSCRIBED
before me this date,
March 4, 2014

A copy of this motion must be sent to the Respondent in this case.

John D. Smith
Movant/Attorney

Mariann Notary
Clerk of Court/ Notary Public

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

John D Smith, Petitioner	)	
v.	)	File No.: CK14-12111
Anne C. Smith, Respondent	)	Petition No.: 14-42301

NOTICE OF MOTION

TO: Anne C Smith
101 Oak Street, Apt #123
Dover, DE 19901

Name and address of the Respondent in this case.

Indicate here what your motion is pertaining to. What action are you requesting from the Court?

PLEASE TAKE NOTICE that the attached Motion for Continuance, Dismissal, Visitation, ……. is herewith presented to the Court for consideration. If you are opposed to this motion, you must file a written response with the Court within ten (10) days of the service of this motion. If no response is timely filed, the motion may be decided without further opportunity for you to be heard on the matter. Family Court Rules, Rule 7(b)(2).

Dated: March 4, 2014

Only sign in the presence of a notary or court staff.

STOP

John D Smith
Movant/Attorney

Name and address of Movant or Attorney John D Smith
Street Address (including Apt) 490 Pine Street
P.O. Box Number
City/State/ Zip Code Wilmington, DE 19801

Form 405

FILM

The Family Court of the State of Delaware

In and For ☐ New Castle ☒ Kent ☐ Sussex County

Check the county in which you are filing.

Petitioner	Respondent	
Name: Anne C. Smith	Name: John D. Smith	File Number: CK14-12111
Street Address: 101 Oak Street	Street Address: 490 Pine Street	
Apt. or P.O. Box Number: Apt. #123	Apt. or P.O. Box Number:	Petition Number: 14-42301
City: Dover State: DE Zip Code: 19901	City: Wilmington State: DE Zip Code: 19899	
Social Security Number: 111-22-3333 Date of Birth: 2/3/64	Social Security Number: 787-98-6767 Date of Birth: 7/13/65	
Attorney Name and Phone Number: n/a	Attorney Name and Phone Number: n/a	

The section below is to be completed by and signed in the presence of a Notary Public/Clerk of Court on the day of your Divorce/Annulment Hearing.

Fill in the county where you are filing,

AFFIDAVIT OF NON-MILITARY SERVICE

STATE OF DELAWARE)
) ss.
Kent COUNTY)

Fill in the date you have the form notarized.

BE IT REMEMBERED, that on this date, November 30, 2014, personally appeared Before me, a Notary Public for the State of Delaware in the County declared above, Anne C. Smith, ("Affiant"), who, being duly sworn by me according to law, did depose and say:

1. That Affiant is the Petitioner in the above captioned civil action;
2. That Respondent is not in the military service of the United States of America; and
3. That Affiant has made this Affidavit pursuant to the provisions of § 200 of the Act of Congress entitled "Soldiers and Sailors Civil Relief Act of 1940" (50 U.S.C.A. App. 520) approved October 17, 1940.

STOP

Sign in the presence of a notary or court staff on the day of your hearing.

Anne C. Smith
Petitioner

SWORN TO AND SUBSCRIBED before me this date, *November 30, 2014*

STOP

Signed by notary or court staff.

Donna King
Notary Public or Clerk of Court

Form 599
(Rev. 02/11)

The Family Court of the State of Delaware

In and For ☐ New Castle ☐ Kent ☐ Sussex County

Contact Guidelines

Parents are encouraged to create an agreed equitable written contact schedule that fits their circumstances and their children's lives, with the following serving as a possible schedule when the parents cannot agree. Nothing herein prohibits the parents from changing the schedule upon mutual agreement. In the event of conflicting dates and times, holidays and school breaks shall take priority.

If a child indicates a strong opposition to being with the other parent, it shall be the responsibility of both parents to appropriately deal with the situation by calmly discussing with the child his or her reasons, and to work together to alleviate any issues without confrontation or argument. If they cannot resolve the problem, the parents are encouraged to seek the immediate assistance of a counselor or other professional, or may file a motion requesting Court-ordered counseling. It is the absolute affirmative duty of both parents to encourage compliance with any such Court Order.

The Court's goal is to have the children spend as much quality time with each parent as possible.

The guidelines are based on the assumption that both parents are competent and effective parents and that the child is safe with each parent. In the event that the parties attend a mediation conference and are unsuccessful in reaching either an interim or permanent agreement on the issue of parental contact, the mediator may recommend an alternative schedule considering the particular circumstances of the case as presented during that mediation.

It is with this background that the following guidelines will be applied after considering the factors in 13 Del. C. §722:

1. The wishes of the child's parent or parents as to his or her custody and residential arrangements;
2. The wishes of the child as to his or her custodian(s) and residential arrangements;
3. The interaction and interrelationship of the child with his or her parents, grandparents, siblings, persons cohabiting in the relationship of husband and wife with a parent of the child, any other residents of the household or persons who may significantly affect the child's best interests;
4. The child's adjustment to his or her home, school and community;
5. The mental and physical health of all individuals involved;
6. Past and present compliance by both parents with their rights and responsibilities to their child under § 701 of this title;
7. Evidence of domestic violence as provided for in Chapter 7A of this title; and
8. The criminal history of any party or any other resident of the household including whether the criminal history contains pleas of guilty or no contest or a conviction of a criminal offense

In addition to the 13 Del. C. §722 factors, the following factors may be considered:

1. Previous contact with parents
2. Parents' ability to communicate
3. Geographical proximity with regard to home, school and daycare
4. Housing arrangements
5. Parents' work schedule

6. Number and age of siblings
7. Drug and alcohol history
8. Prior parental interaction
9. Other relevant factors as the Court deems appropriate.

For those children who have had more exclusive care by one parent, the Court should consider whether such overnight visitation should be phased in.

Birth to 18 months: Every other weekend, beginning 6:00 p.m. on Friday through 6:00 p.m. Sunday and two week nights for a minimum of three hours with the parent seeking contact. Each parent shall be entitled to two non-consecutive weeks of vacation. A parent shall give a minimum of thirty (30) days written notice to the other parent prior to the first parent exercising his or her vacation.

18 months to 5 years: Two overnights per week and every other weekend from 6:00 p.m. on Friday through Monday morning with the parent seeking contact. Each parent shall be entitled to two non-consecutive weeks of vacation. A parent shall give a minimum of thirty (30) days written notice to the other parent prior to the first parent exercising his or her vacation.

5 years and up: Shared contact schedule which may be extended to alternate weeks.

1. **Holidays** _____shall have the children on the holidays in Column 1 in odd-numbered years and the holidays in Column 2 in the even-numbered years. _____shall have the children on the holidays in Column 1 in the even-numbered years and the holidays in Column 2 in odd-numbered years:

Column 1	**Column 2**
Easter or other religious holiday	Memorial Day
Fourth of July	Labor Day
Halloween	Thanksgiving Day
Christmas Day	Christmas Eve

With the exception of Christmas and Halloween contact, holiday contact shall be from 9 a.m. until 6 p.m. the day of the holiday. Halloween contact shall begin at 5 p.m. and end at 8 p.m. on Halloween. Christmas Eve contact shall begin at 6 p.m. on December 24th and end at noon on December 25th. Christmas Day contact shall begin at noon on December 25th and end at 6 p.m. on December 26th. When a holiday falls on a Monday immediately following a contact weekend, the parent that had contact for the weekend shall be entitled to keep the children continuously from 6 p.m. Friday until 6 p.m. Monday.

2. **Mother' s/Father's Day**: On Mother's Day and Father's Day, no matter whose turn for contact, the children shall be with the parent whose holiday is being celebrated from 9 a.m. until 6 p.m.

3. **School Breaks (Winter and Spring)**: Winter and Spring Breaks shall be shared equally between the parents by dividing the breaks equally or rotating the breaks.

4. **Summer Vacation**: With the exception of children under the age of 5 years, the parents shall alternate contact weeks in the summer with the schedule beginning the first Friday in June and concluding the last Friday in August. _____shall select their weeks first in odd numbered years and _____shall select their weeks first in even numbered years. The parent whose choice it is that year shall give the other parent written notice of his/her summer week selection between March 1st and April 1st. The parent who has the child for the week shall be responsible for taking the child to his or her extra curricular activities, summer school, and providing summer care for that week.

5. **Late pick-up**: Both parents shall have the children ready for pick-up at the start of all contact periods. The children and the parent have no duty to wait for the other parent to arrive for contact more than thirty (30) minutes, unless notified. The parent who arrives more than thirty (30) minutes late without prior notification for a particular contact, forfeits that contact, unless the other parent agrees otherwise.

6. **Drop-off**: Neither parent shall return the children early from contact unless the parents agree to a different drop-off time in advance. The parent or other adult well-known to the children must be present when the children are returned from contact.

7. **Canceling contact**: Except in emergency situations, parents must give one another at least twenty-four (24) hours advance notice when canceling a contact period.

8. **Medical treatment and emergencies**: If the children become seriously ill or injured, each parent shall notify the other parent as soon as practicable. If the children become ill or injured during contact, the parent shall contact the other parent to secure treatment unless the situation is a medical emergency.

9. **Communication**: Both parents shall be entitled to reasonable communication with the child while the child is in the other parents' care (including but not limited to telephone, e-mail, mail and text messaging). Neither parent shall interfere with the communication between the children and the other parent. Long distance calls from an out-of-town parent shall be at that parent's expense.

10. **Transportation**: Unless otherwise ordered or mutually agreed, parents shall have shared responsibility for transportation of the children to and from their home for contact periods and may use another adult well-known to the children for picking up or dropping off the children when necessary. Any person transporting the children shall not be under the influence of alcohol or drugs, and must be a licensed, insured driver. All child restraint and seat belt laws must be observed by the driver.

11. **School work**: Parents shall provide time for children to study and complete homework assignments, even if the completion of work interferes with the parent's plans for the children. Both parents are responsible for providing all of the school assignments and books to the other parent. Summer school which is necessary for a child must be attended, regardless of which parent has the child during the summer school period.

12. **Extracurricular activities**: Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, should not be interrupted. The parent with whom the children are staying shall be responsible for providing transportation to activities scheduled during contact with that parent. Each parent shall provide the other parent with notice of all extracurricular activities, complete with schedules and the name, address and telephone number of the activity leader, if available.

13. **Relocation**: Prior to a parent relocating their residence, consideration shall be given to the effect the relocation may have on the existing contact schedule. If the relocation may result in a change in the child's school, travel time to school or extracurricular activities or otherwise may adversely affect the child's best interest, the parent choosing to relocate shall obtain written approval from the other parent or a Court Order prior to relocating.

14. **Notice of change of address**: Both parents shall give written notice to the other parent immediately upon any impending change of address and/or phone number. The written notice must include the new mailing address and phone number (in the event the mailing address is a Post Office Box, the written notice must include a physical address and/or directions to the new residence), unless a restrictive order has been obtained from the Court. A copy of the notice shall also be provided to the Family Court in the appropriate county.