

December 14, 2000

THE QUESTION

Upon my recent certification as a mediator, I contacted various Family Court Mediation and Guardian Ad Litem programs in several Central Florida jurisdictions within which I wish to make my services available. I also have an extensive background as a Guardian Ad Litem in Custody, Abuse and Neglect/Dependency matters and desire to assist the Florida Family Courts in that capacity.

Upon inquiry, there appears to be some question as to whether or not a person who is serving as a Mediator in a particular Family Court program within a particular jurisdiction can also serve as a Guardian Ad Litem in the same or even a different jurisdiction.

Would you please advise whether or not there is any statutory or mediation rule that would either clarify or prohibit this?

Thank you for your anticipated courtesies and cooperation. I look forward to hearing from you in the near future.

Certified Family Mediator
Central Division

AUTHORITY REFERENCED

Rules 10.340(a), 10.340(b), 10.340(c), Florida Rules for Certified
and Court-Appointed Mediators
MQAP Advisory Opinion 99-007

SUMMARY

A GAL is not expressly prohibited from becoming certified or serving as a mediator in dependency cases. However, once certified, a mediator must observe all rules with specific attention to those relating to conflicts of interests and required disclosures.

OPINION

The Committee refers you to Advisory Opinion 99-007 which stated that “there is nothing in the Florida Rules for Certified and Court-Appointed Mediators which expressly prohibits a GAL from becoming certified or serving as a mediator...” While this opinion specifically referenced

dependency cases, the Committee opines that the same answer applies to family cases. That previous opinion also discussed the rules governing conflicts of interest as well as the required disclosures and prohibitions.

Specifically, rule 10.340(a) provides that “a mediator shall not mediate a matter that presents a clear or undisclosed conflict of interest.” The burden of disclosure regarding conflicts of interest rests on the mediator, who is required to disclose as soon as practical. See rule 10.340(b). After disclosure, a mediator may serve if all parties agree and there is not a clear conflict of interest. See rule 10.340(c).

Advisory Opinion 99-007 concluded that mediators must make appropriate disclosures and be prepared to withdraw from mediation upon the request of any party or if there is a clear conflict of interest. As in its previous opinion, the Committee also recommends that you review guidelines established by the Guardian Ad Litem program and any other rules of professional conduct by which you may be bound.

Date

Charles M. Rieders, Panel Chair