

16 March 2000

THE QUESTION

Mediator Qualifications Advisory Panel

I have recently talked to Kim Kosch regarding a confusing issue concerning mentoring.

It appears that a 1990 Administrative Order states that mediators are required "to allow a minimum of two trainees per year to observe mediation sessions."

This issue was raised by a mentoring request to our primary Juvenile mediator-who has already "trained" two individuals this year. My questions are:

1). does the term "observe" include a requirement for co-mediation? or only observation?

2). does "two trainees per year" mean two individuals per mediator or two individuals in each area the mediator is certified in (many of our staff hold multiple certifications).

Thank you.

Certified County, Family, Circuit & Dependency Mediator
Southern Division

AUTHORITY REFERENCED

Florida Rules for Certified and Court-Appointed Mediators
10.030(a)(2)(A); 10.120(c)

1990 Administrative Order Governing Certification of Mediators

SUMMARY OF THE OPINION

- A. The term "observe" does not refer to co-mediation.
- B. A mediator's ethical obligation to allow observations of their mediations for mentorship purposes is fulfilled by assisting a total of 2 trainees per year, even if certified in more than one area.

OPINION 2000-001A

It is the opinion of this panel that the term "observe" as referred to in the 1990 Administrative Order does not include a requirement to co-mediate. Throughout the order, there are clear distinctions drawn between the two mentorship requirements, namely, observation and co-mediation. Therefore, the panel believes that the chief justice intended the requirement that mediators "allow a minimum of two trainees per year to observe mediation sessions" be interpreted literally to exclude co-mediation.

OPINION 2000-001B

The requirement of allowing trainees to observe mediations of currently certified mediators was intended to encourage mediators to assist in the training of new mediators as covered in rule 10.120(c). The panel opines that while mediators are encouraged to assist with the mentoring of new mediators in all of their areas of certification, in as many cases as they can, their ethical responsibility through rule 10.030(a)(2)(A) and the 1990 Administrative Order is fulfilled by allowing a total of two observations per year, irrespective of the number of certifications that mediator holds. The panel emphasizes that it is the parties' right to determine whether trainees will be allowed to observe and/or co-mediate during their mediation conferences.

March 16, 2000

Date

Charles M. Rieders

Charles M. Rieders, Panel Chair