

9 November 1999

THE QUESTION

To the Advisory Panel;

I have been a Guardian Ad Litem in a Central Division County for 6 years, serving in Delinquency, Dependency and Family Court. I also have a Mediation practice in Family Court (obviously not with any of my own Guardian cases).

I am considering certification in Dependency Mediation but before I take the class I need your opinion. I feel that I am an excellent candidate to mediate in Dependency because I have helped design many case plans and have negotiated between parents and the department on many occasions. However, the Director of the Guardian Program was concerned that it may be a conflict of interest for me to mediate in dependency because I am a volunteer Guardian. Obviously I would not mediate on one of my own cases.

What is your opinion?

Thank you very much for your help. I look forward to mediating in dependency if possible, without giving up my volunteer position.

Family Mediator  
Central Division

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AUTHORITY REFERENCES

Florida Rules for Certified and Court-Appointed Mediators – 10.070 (b)(1);  
10.070 (b)(2); 10.070 (b)(3)

SUMMARY OF THE OPINION

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

While 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 in dependency cases,

the advisory panel directs your attention to rules 10.070(b)(1), (2) and (3) regarding conflicts of interest, required disclosures and prohibitions.

Specifically, a mediator must disclose any current, past, or possible future representation or consulting relationship with any party or attorney involved in the mediation. See rule 10.070(b)(1). A mediator must disclose to the parties or to the court involved any close personal relationship or other circumstance, in addition to those specifically mentioned earlier in this rule, which might reasonably raise a question as to the mediator's impartiality. See rule 10.070(b)(2). After appropriate disclosure, the mediator may serve if both parties so desire. However, if the mediator believes or perceives that there is a clear conflict of interest, he or she should withdraw, irrespective of the expressed desire of the parties. See rule 10.070(b)(3).

As a result of these rules, before you take the dependency mediation certification training, you should make your own determination as to whether 1) you believe that the parties will all agree for you to serve after appropriate disclosure and 2) even if the parties request that you serve, that you will not perceive a clear conflict of interest in a sufficient number of cases for it to be worth your time and effort to obtain certification.

Finally, the Advisory Panel would direct you to review guidelines established by the Guardian Ad Litem program and any other professional rules to which you are bound.

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Date

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Charles M. Rieders, Panel Chair