

Advisory Opinion***MEAC 2011-016***

Mediator Ethics Advisory Committee

c/o Florida DRC, Supreme Court Building, 500 S. Duval Street, Tallahassee, FL 32399

February 1, 2012

Question:

I have been considering the ethical obligation of an attorney to know the MEAC opinions on conflicts. It is a non-waivable conflict for a mediator [to] work on a case in which one of the parties is either represented by or against a member of the mediator's firm.

I have found that many mediators and attorneys are reading the rule (which was created in 2000) but not the opinion that interprets it. They think that the parties can sign off on the conflict. If a client learned of the conflict after the mediation occurred, it seems that the attorney could have a problem for permitting the mediation to occur. If the client got buyer's remorse one might argue that the agreement could be attacked because of the conflict of interest. I am writing an article on this issue.

Does the MEAC have any thoughts on this aspect of the rule and MEAC application?

Submitted by a Certified County, Circuit and Appellate Mediator
Central Division

Authorities Referenced:

Rule 10.340 and Committee Note, Florida Rules for Certified and Court-Appointed Mediators

Summary:

The inquiry lacks a direct question related to mediator ethics.

Opinion:

The MEAC is of the opinion that the inquiry, as submitted, does not include a question related to the ethical conduct of mediators. It is beyond the jurisdiction of the MEAC to render an opinion as to attorney obligations.

Date

Beth Greenfield-Mandler, Committee Chair