

**JUDICIAL ETHICS COMMITTEE
ADVISORY OPINION NO. 99-6**

We have been asked to render an ethics opinion as to whether a part-time general sessions judge may serve as a certified Rule 31 mediator. See generally Sup. Ct. R. 31.

Canon 4(F) prohibits a judge from acting as an arbitrator or mediator unless expressly authorized by law. However, continuing part-time judges (including part-time general sessions judges) “[are] not required to comply . . . (b) at any time with:

Canon 4(C)(2)	(governmental committees)
Canon 4(D)(3)	(business interests)
Canon 4(E)(1)	(fiduciary activities)
Canon 4(F)	(arbitrator or mediator)
Canon 4(G)	(practice of law)
Canon 4(H)	(compensation and reimbursement)
Canon 5(B)(2)	(candidates seeking appointment).

see Canon 5, *Application of the Code of Judicial Conduct*, (C)(1)(b), except that a part-time judge “shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as judge or in any other proceeding related thereto.” Canon 5, *Application of the Code of Judicial Conduct*, (C)(3). Accordingly, a part-time judge is not *per se* prohibited from acting as a Rule 31 mediator.

Notwithstanding, a part-time judge must otherwise conduct himself/herself in accordance with the directives of the Code of Judicial Conduct making sure that his/her acts as an arbitrator do not interfere or interrupt his/her judicial duties. See generally Canon 4(A). He/She must also refrain from actions which would necessarily encourage his/her recusal from performing his/her duties as a judge. Thus, a part-time judge, acting in his/her capacity as a Rule 31 mediator, must determine the propriety of his/her role as mediator on a case-by-case basis.

FOR THE COMMITTEE

David G. Hayes, Judge

CONCUR:

Kurtz

Frierson

Peete

Waggoner