

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Susan D. Huguenor, Co-chairs
Melissa Ardaiz, Research Attorney, 415-865-7567
George Ferrick, Supervising Court Services Analyst, 415-865-7639
Michelle Diamond, Research Analyst, 415-865-7569

DATE: September 7, 2004

SUBJECT: Family and Juvenile Law: Mediator and Evaluator Education, Training, and Experience Requirements (amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5) (Action Required)

Issue Statement

Rules 5.210, 5.230, and 1405.5 of the California Rules of Court concern education, training, and experience standards for mediators and evaluators in family and juvenile law proceedings. In response to concerns expressed by practitioners in these fields, rules 5.210, 5.230, and 1405.5 should be amended to clarify certain legal and procedural requirements, provide additional flexibility in compliance, and promote consistency among other California rules of court involving education, training, and experience standards for court professionals working with families and children.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2005, amend rules 5.210, 5.230, and 1405.5 of the California Rules of Court to clarify the education, training, and experience requirements applicable to mediators and evaluators and to provide flexibility in meeting the rules' requirements.

The text of the proposed rules is attached at pages 6–11.

Rationale for Recommendation

This proposal requests changes to three rules concerning education, training, and experience standards for mediators and evaluators in family and juvenile law proceedings.

Rule 5.210

Rule 5.210 establishes standards of practice for court-connected child custody mediation services. Although it mandates that court-connected child custody mediators complete continuing education annually, it does not specify the number of hours needed to satisfy the requirement. The Family and Juvenile Law Advisory Committee proposes amending rule 5.210(f)(1)(B) to require child custody mediators to complete eight hours of continuing education each year to be consistent with the continuing education requirements in current rule 5.225(g)¹ (applicable to child custody evaluators) and rule 1405.5(g) (applicable to juvenile dependency mediators).

The proposal would further clarify that mediators are required, under rule 5.230, to complete 4 hours of annual domestic violence training in addition to the 8 hours of continuing education mentioned above, for a total of 12 hours. Child custody evaluators and dependency mediators are also required to complete a total of 12 hours of continuing education annually, including 4 hours related to domestic violence, under the provisions of current rule 5.225(g) and rule 1405.5(g).

As circulated for comment, the proposal also included a provision in subdivision (f)(1)(B) stating that continuing education completed under rule 5.225(g) or rule 1405.5(g) would satisfy the continuing education required by rule 5.210 if the hours obtained were relevant to child custody mediation. After the comment period, the committee decided that the more efficient approach would be to develop a separate rule of court on the issue of cross-counting training hours in multiple practice areas—one that is applicable across family and juvenile law fields where practitioners are functioning in multiple roles and require training in the same or related subject areas. No comments were received with respect to this particular provision, and the committee does not anticipate any controversy in eliminating it from this proposal. In the meantime, staff at the Administrative Office of the Courts (AOC) will work with each county to clarify that the current language of rules 5.210, 5.225, and 1405.5 does not prohibit those encompassed within its provisions from cross-counting training hours that are relevant to multiple practice areas.

Finally, the committee recommends modifying the current annual training requirements of family court services directors, managers, and supervisors from 32 to 24 hours. This modification is necessary to offset the 8 hours of annual continuing education recommended by the committee in subdivision (f)(1)(B), which also applies to those in a supervisory or managerial role.

¹ Rule 5.225 was circulated for comment during the spring 2004 RUPRO cycle. If the Judicial Council adopts the amendments proposed to rule 5.225, current subdivision (g) (continuing education) will become subdivision (h), effective January 1, 2005.

Rule 5.230

Rule 5.230 contains domestic violence training standards for court-appointed child custody investigators and evaluators. It currently requires evaluators to annually complete four hours of domestic violence update training through in-person instruction. The committee recommends eliminating the requirement that the training be received in person to provide flexibility in compliance, which is important given current budgetary constraints.

Rule 1405.5

Rule 1405.5 identifies mandatory guidelines for juvenile dependency mediation programs. In addition to changes in subdivisions (d)(6)(A) and (d)(6)(F) to improve clarity, the committee recommends changes to the following subdivisions in response to concerns expressed by juvenile dependency mediators, program administrators, and dependency mediation organizations after the rule's adoption on January 1, 2004.

In subdivision (d)(6)(G), the committee proposes to clarify that the child has a right to "leave" rather than "terminate" the mediation session if his or her emotional or physical well-being is threatened. Subdivision (d)(2)(B) confers upon the child the right to participate in the dependency mediation process accompanied by his or her attorney. The right to participate includes the right to attend a mediation session as well as the right not to attend the mediation session. If the child feels emotionally or physically threatened, he or she has the option of either taking a break from the mediation session or leaving the session entirely. However, other participants in the mediation session, such as the dependency mediator, the child's parents or guardians, and the child's attorney, are not obligated to terminate the mediation session if the child chooses to exercise his or her right to leave.

In subdivision (e)(1)(B), the committee proposes to eliminate the reference to experience requirements. Subdivision (e)(2) specifically addresses experience requirements for dependency mediators, and it is redundant and unnecessary to also include this information in subdivision (e)(1)(B).

In subdivision (e)(2), the committee proposes to add child welfare worker to the list of professional fields of experience that would qualify someone to conduct dependency mediations and emphasize that professional experience in juvenile dependency court is more directly related to the practice of dependency mediation than experience in domestic relations court.

In subdivision (e)(3), the committee proposes to delete the provision that precludes training received before January 1, 2002, from satisfying the initial training requirements. The mandate of 12 hours of continuing education each year is sufficient to ensure that dependency mediators receive updated training. In addition, the amended subdivision would emphasize the importance of practical skills specific to dependency mediation by stating that training must relate "to the practice of dependency mediation." Finally,

clarify the list of training topics by clustering related topics together and eliminating unnecessary language.

Alternative Actions Considered

No alternative actions were considered. The proposed amendments are necessary to clarify certain legal and procedural requirements, offer a level of flexibility that responds to current fiscal concerns, and promote consistency among comparable California rules of court.

Comments From Interested Parties

The invitation to comment on the proposal was circulated from April 5 through June 4, 2004, to the standard mailing list for family and juvenile law proposals, as well as the regular rules and forms mailing list. This distribution includes judges, court administrators, attorneys, social workers, probation officers, mediators, and other family and juvenile law professionals, such as family court services directors, managers, supervisors, and staff.

The comments are summarized in the attached chart at pages 12–17. There were a total of 15 commentators. All commentators either agreed with the proposal or agreed if modifications were made. Many supported the proposed amendments, offering nothing but praise for the improved organization, clarity, and flexibility they will provide.

Many commentators responded to the rules as a whole. Only two commentators referred to a specific subdivision of rule 5.210, while four commentators addressed a specific subdivision of rule 1405.5. Of those six commentators, one comment regarding rule 1405.5 was significant. The commentator suggested increasing the initial training and experience requirements to ensure that mediators have the level of skill necessary to handle the complexity of dependency mediation cases. The committee believes, however, that the current specification of initial education, training, and experience requirements, as well as continuing education requirements, provide dependency mediators with the level of skill necessary to effectively serve their clients. This level of training and experience is also consistent with other California rules of court pertaining to mediator and evaluator education, training, and experience standards, such as rules 5.210 and 5.225. Therefore, the committee recommends continuing to require 40 hours of initial training and two to three years of initial experience depending on where the experience is obtained. Although additional training would undoubtedly provide dependency mediators with a greater level of expertise, the purpose of this rule is to provide minimum education, training, and experience requirements that take into consideration the practicality of compliance. An increase in the level of required training and experience might create a hardship on those courts that have limited pools of qualified dependency mediators.

Implementation Requirements and Costs

The proposed amendments should not result in any additional costs. The flexibility provided by the alternative means of training should result in cost savings.

Attachments

Rules 5.210, 5.230, and 1405.5 of the California Rules of Court are amended, effective January 1, 2005, to read:

1 **Rule 5.210. Court-connected child custody mediation**

2
3 (a)–(e) ***

4
5 (f) [Training, continuing education, and experience requirements for
6 mediator, mediation supervisor, and family court services director] As
7 specified in Family Code sections 1815 and 1816:

8
9 (1) All mediators, mediation supervisors, and family court service
10 program directors must:

11
12 (A) ***

13
14 (B) ~~Attend~~ Annually complete 8 hours of related continuing
15 education programs, conferences, and workshops; This
16 requirement is in addition to the annual 4-hour domestic
17 violence update training described in rule 5.230; and

18
19 (C) ***

20
21 (2) Each mediation supervisor and family court services director ~~and~~
22 ~~mediation supervisor~~ must ~~attend~~ complete at least ~~32~~ 24 hours of
23 additional training each calendar year. This requirement may be
24 satisfied in part by the domestic violence training required by
25 Family Code section 1816.

26
27 (g) ***

28
29 **Rule 5.230. Domestic violence training standards for court-appointed child**
30 **custody investigators and evaluators**

31
32 (a)–(c) ***

33
34 (d) [Mandatory training] Persons appointed as child custody investigators
35 under Family Code section 3110 or Evidence Code section 730, and persons
36 who are professional staff or trainees in a child custody or visitation
37 evaluation or investigation, must complete basic training in domestic
38 violence issues as described in Family Code section 1816 and in addition:

39
40 (1) ***

1
2 (2) (*Annual update training*) Four hours of update training are required
3 each year after the year in which the advanced training is
4 completed. These four hours must consist of ~~in-person classroom~~
5 instruction focused on, but not limited to, an update of changes or
6 modifications in local court practices, case law, and state and
7 federal legislation related to domestic violence, and an update of
8 current social science research and theory, particularly in regard to
9 the impact on children of exposure to domestic violence.

10
11 (e)–(h) ***
12

13 **Rule 1405.5. Court-connected dependency mediation**
14

15 (a)–(c) ***
16

17 (d) [**Mediation process**] The dependency mediation process must be
18 conducted in accordance with pertinent state laws, applicable rules of court,
19 and local protocols. All local protocols must include the following:
20

21 (1)–(5) ***
22

23 (6) Protocols related to the inclusion of children in the mediation,
24 including a requirement that the mediator explain in an age-
25 appropriate way the mediation process to a participating child. The
26 following information must be explained to the child:
27

28 (A) ~~The options available to~~ How the child may for his or her
29 ~~participation~~ participate in the mediation;

30
31 (B)–(E) ***
32

33 (F) The child’s ~~absolute~~ right to be accompanied, throughout the
34 mediation, by his or her attorney and other support persons;
35 and
36

37 (G) The child’s ~~ability to take a break or terminate~~ right to leave
38 the mediation session if his or her emotional or physical well-
39 being is threatened.
40

41 (7)–(9) ***
42

1 (e) [Education, experience, and training requirements for dependency
2 mediators] Dependency mediators must meet the following minimum
3 qualifications:
4

5 (1) Possession of one of the following:
6

7 (A) ***
8

9 (B) A ~~Juris Doctor~~ juris doctorate or bachelor of laws degree with
10 ~~demonstrated experience in the field of juvenile or family~~
11 ~~law.~~
12

13 (2) At least two years of experience as an attorney, a referee, a judicial
14 officer, ~~or a mediator, or a child welfare worker~~ in juvenile
15 dependency court ~~or domestic relations court~~, or at least three
16 years of experience in mediation, or counseling, psychotherapy, or
17 ~~any combination thereof~~, preferably in a setting related to juvenile
18 dependency or domestic relations; and
19

20 (3) Completion of at least 40 hours of initial dependency mediation
21 training prior to or within 12 months of beginning practice as a
22 dependency mediator. Currently practicing dependency mediators
23 must complete the required 40 hours of initial training by January
24 1, 2006; ~~at least 20 hours of this training must be completed by~~
25 ~~January 1, 2005. No training completed before January 1, 2002~~
26 ~~may be used to satisfy these requirements.~~ The training must cover
27 the following subject areas as they relate to the practice of
28 dependency mediation:
29

30 (A) ~~The dynamics of physical and sexual abuse, exploitation,~~
31 ~~emotional abuse, endangerment, and neglect of children, and~~
32 ~~their impacts on children;~~
33

34 (B) ~~Child development and its relevance to the needs of children,~~
35 ~~to child abuse and neglect, and to child custody and visitation~~
36 ~~arrangements;~~
37

38 (C) ~~The dynamics of domestic and family violence, its relevance~~
39 ~~to child abuse and neglect, and its effects on children and~~
40 ~~adult victims;~~
41

42 (D) ~~Substance abuse and its impact on children;~~
43

- 1 ~~(E) The roles and participation of parents, other family members,~~
2 ~~children, attorneys, guardians ad litem, the child welfare~~
3 ~~agency staff, Court Appointed Special Advocates (CASAs),~~
4 ~~law enforcement, mediators, the court, and other involved~~
5 ~~professionals and interested participants in the mediation~~
6 ~~process;~~
7
8 ~~(F) Juvenile dependency and child welfare systems, including~~
9 ~~dependency law;~~
10
11 ~~(G) The dynamics of disclosure and recantation and of denial of~~
12 ~~child abuse and neglect;~~
13
14 ~~(H) Adult and child psychopathology;~~
15
16 ~~(I) The psychology of families, the dynamics of family systems,~~
17 ~~and the impacts of separation, divorce, and family conflict on~~
18 ~~children;~~
19
20 ~~(J) Safety and treatment issues related to child abuse, neglect,~~
21 ~~and family violence;~~
22
23 ~~(K) Available community resources for dealing with domestic and~~
24 ~~family violence; substance abuse; and housing, educational,~~
25 ~~medical, and mental health needs in addition to related~~
26 ~~services for families in the juvenile dependency system, such~~
27 ~~as regional centers;~~
28
29 ~~(L) The impact that the mediation process can have on children's~~
30 ~~well-being and behavior, and when and how to involve~~
31 ~~children in mediation;~~
32
33 ~~(M) Methods to assist parties in developing options for different~~
34 ~~parenting arrangements that consider the needs of the~~
35 ~~children and each parent's capacity to parent;~~
36
37 ~~(N) Awareness of differing cultural values, including the~~
38 ~~dynamics of cross-generational cultural issues and local~~
39 ~~demographics;~~
40
41 ~~(O) The Americans With Disabilities Act, its requirements, and~~
42 ~~strategies for handling situations involving disability issues or~~
43 ~~special needs;~~

1
2 ~~(P) The effect on family dynamics of removal or nonremoval of~~
3 ~~children from their homes and family members, including the~~
4 ~~related implications for the mediation process;~~

5
6 ~~(Q) The effect of poverty on family dynamics and parenting; and~~
7

8 ~~(R) An overview of the special needs of dependent children,~~
9 ~~including their educational, medical, and psychosocial needs,~~
10 ~~and the resources available to meet those needs.~~

11
12 (A) Multiparty, multi-issue, multiagency, and high-conflict cases,
13 including, but not limited to:

14
15 (i) The roles and participation of parents, other family
16 members, children, attorneys, guardians ad litem,
17 children’s caregivers, the child welfare agency staff,
18 Court Appointed Special Advocate (CASA) volunteers,
19 law enforcement, mediators, the court, and other
20 involved professionals and interested participants in the
21 mediation process;

22
23 (ii) The impact that the mediation process can have on a
24 child’s well-being, and when and how to involve the
25 child in the process;

26
27 (iii) The methods to help parties collaboratively resolve
28 disputes and jointly develop plans that consider the
29 needs and best interest of the child;

30
31 (iv) The disclosure, recantation, and denial of child abuse
32 and neglect;

33
34 (v) Adult mental health issues; and

35
36 (vi) The requirements of the Americans with Disabilities Act
37 and strategies for handling situations involving disability
38 issues or special needs;

39
40 (B) Physical and sexual abuse, exploitation, emotional abuse,
41 endangerment, and neglect of children, and their impacts on
42 children, including safety and treatment issues related to child
43 abuse, neglect, and family violence;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

(C) Family violence, its relevance to child abuse and neglect, and its effects on children and adult victims, including safety and treatment issues related to child abuse, neglect, and family violence;

(D) Substance abuse and its impact on children;

(E) Child development and its relevance to child abuse, neglect, and child custody and visitation arrangements;

(F) Juvenile dependency and child welfare systems, including dependency law;

(G) Interfamilial relationships and the psychological needs of children, including, but not limited to:

(i) The effect of removal or nonremoval of children from their homes and family members; and

(ii) The effect of terminating parental rights;

(H) The effect of poverty on parenting and familial relationships;

(I) Awareness of differing cultural values, including cross-generational cultural issues and local demographics;

(J) An overview of the special needs of dependent children, including their educational, medical, psychosocial, and mental health needs; and

(K) Available community resources and services for dealing with domestic and family violence, substance abuse, and housing, educational, medical, and mental health needs for families in the juvenile dependency system.

(f)–(i) ***

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Regina Deihl Executive Director Legal Advocates for Permanent Parenting (LAPP) San Mateo	AM	N	Rule 1405.5, subdivision (e)(3)(A)(i). Because juvenile dependency mediation increasingly involves children’s caregivers (placement issues, visitation, post-adoption contact agreements, etc.), we recommend adding “children’s caregivers” to the list of individuals whom mediators should be aware of.	Agree that “children’s caregivers” should be included. Suggested change has been incorporated in the proposal.
2.	Ms. Elizabeth Dunn Attorney/Dependency Mediation Coordinator Superior Court of Alameda County	A	N	Rule 1405.5. The proposed amendments reflect the product of an excellent collaboration between dependency mediation program supervisors and staff at AOC/CFCC. Minimum education and training requirements are better organized, clearer, and explicitly specific to dependency mediation practice. Further, the amendment eliminates any jeopardy to, or redundant training requirement for, those dependency mediators with extensive practice in the field prior to 2002.	No response required.
3.	Ms. Kim Harmon Director Dependency Mediation Program Superior Court of San Francisco County	A	N	Rules 5.210, 1405.5. These modifications do a much better job of reorganizing and clarifying the distinctive set of training requirements necessary for dependency mediation and custody/visitation mediations.	No response required.
4.	Ms. Frances Henderson Director/Facilitator Family Court Services Written on behalf of 10 family court services directors present at the Bay Area Regional Meeting of Family Court Services	AM	Y	Rule 5.210, subdivision (f)(2). Because the terms “family court services director” and “mediation supervisor” may not include all positions in each county for people filling these positions, we suggest adding the following language after “mediation supervisor” and before “must”: “or persons who operate in the same or similar capacity as family court services director or mediation supervisor.”	While it is important that anyone performing the services of a family court services director or mediation supervisor/manager complete the requisite training, this might place an undue burden on those administrators in smaller counties who have multiple responsibilities and roles.

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Directors				
5.	Ms. Kim Hubbard President Orange County Bar Association Irvine	A	Y	These proposed changes seem to provide improvements in the existing requirements for mediators and evaluators in the context of dependency and family law. The two proposed new declaration forms also appear to be in order and appropriate.	No response required.
6.	Mr. Scott Jones Manager Family Mediation Program Superior Court of Ventura County	A	N	<i>No specific comment</i>	No response required.
7.	Ms. Patricia Kaplan Supervisor Families and Children's Bureau Superior Court of Alameda County	A	N	<i>No specific comment</i>	No response required.
8.	Mr. Stephen V. Love Executive Officer Superior Court of San Diego County	A	N	I feel it is important there be standardized requirements for these type of positions. Yet I do not feel qualified to evaluate what those requirements should be. Currently not a juvenile court issue.	No response required.
9.	Mr. Stuart Lord Mediator Family Court Services Superior Court of Contra Costa County	AM	N	1. Rule 5.210, subdivision (f)(2). The training hours for directors and supervisors should not be reduced.	1. The total number of training hours for directors and supervisors has not been reduced. The number of hours listed in subdivision (f)(2) was modified from 32 to 24 because the 8 hours of continuing education in subdivision (f)(1)(B) that the committee is recommending would also apply to directors and supervisors. Thus, directors and supervisors are still

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>2. The court should provide training for all its employed mediators. As it is, only a limited number of staff members are permitted to attend conferences and trainings during work hours.</p> <p>3. Distance learning modules, along with work release time for completion, should be an option.</p>	<p>responsible for completing a total of 32 hours of training annually.</p> <p>2. No response required. This comment does not specifically pertain to rule provisions.</p> <p>3. Agree that distance-learning modules should be an option. In fact, mediators and evaluators are currently permitted to use distance-learning options as a means of complying with initial training and education requirements and continuing education requirements. It is within local court discretion to determine whether to allow work release for completion of the training.</p>
10.	Ms. Megan Orlando President Juvenile Dependency Court Mediators Association (JDCMA)	A	Y	Rule 1405.5. On behalf of JDCMA, I would like to thank the committee for making the proposed changes to Rule 1405.5. The clarification and emphasis on the importance of training in “mediation” and in juvenile law/child welfare practices will help ensure the safety and well-being of children and families in the system.	No response required.
11.	Ms. Megan Orlando Director Juvenile Dependency Mediation Services Superior Court of Los Angeles County	AM	N	1. Rule 1405.5, subdivision (e)(2). There should be a minimum of five years of experience in the professional field of practice and three years in the area of mediation, counseling, or working in the area of child abuse and neglect.	1. Because there are initial education and training requirements that must be completed in addition to the experience requirements, it is unnecessary to increase the minimum amount of initial experience. Requiring more than two to three years of

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>2. Rule 1405.5, subdivision (e)(2). The inclusion of “child welfare worker” with experience in dependency court is appropriate provided that they also meet the same license and educational requirements set forth in subdivision (e)(1)(a). A “child welfare worker” should also have to meet the proposed increase in experience requirements proposed above.</p> <p>3. Rule 1405.5, subdivision (e)(3). Dependency mediators should be mandated to complete at least 20 hours of additional dependency mediation training after the completion of the initial 40 hours. The complexity of multi-party, high conflict dependency cases require greater skills and experience by mediators to prevent harm and to effectively assist the parties in navigating between the familial issues and those involving inter-agency policy disputes and/or contentions. Additional hours of training will assist mediators in meeting the needs of all of the stakeholders in dependency cases.</p>	<p>experience may work a hardship on courts that have a limited pool of qualified mediators to choose from.</p> <p>2. Any person acting as a dependency mediator must meet the education, training, and experience requirements delineated in subdivision (e). The inclusion of “child welfare worker” in subdivision (e)(2) is only referring to a means of satisfying the two to three years of required experience; it does not in any way exempt someone who has experience as a child welfare worker from having to satisfy other requirements of the rule. However, for reasons stated above, it is unnecessary to increase the amount of initial experience required to five years.</p> <p>3. While additional training would undoubtedly increase a dependency mediator’s professional expertise, it is unnecessary to require a total of 60 hours of training initially. Dependency mediators will obtain sufficient skill to handle the complexity of cases through the combination of initial education, training, and experience requirements as well as the continuing education requirements mandated by this rule. Requiring 60 hours of initial training would also be</p>

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				4. Rule 1405.5, subdivision (e)(3). I agree with the proposed deletion of the provision stating that “no training completed before January 1, 2002 may be used to satisfy these requirements.”	inconsistent with rules 5.210 and 5.225, both of which require 40 hours of initial training for mediators and evaluators in the context of family law proceedings. 4. No response required.
12.	Dr. Zena D. Polly Private psychology practice Irvine	A	N	<i>No specific comment</i>	No response required.
13.	Mr. Michael Powell Supervisor Family Court Services Superior Court of San Luis Obispo County	A	N	The training, experience, and mediation standards in this proposal are reasonable and would not be difficult to complete within the context of our current training and mediation practice.	No response required.
14.	Ms. Martha Rosenberg Director Family and Investigative Court Services Superior Court of Contra Costa County	AM	N	1. Rule 1405.5, subdivision (d)(2)(B): I remain concerned that minor’s counsel may participate in the mediation session in the event that the minor elects not to do so. If minor’s counsel is present, then all attorneys may insist on being present, and if they are unable to attend the session, they will object to the mediation going forward. Such objections would significantly diminish and undermine the existence of our program. In our county, the minor’s rights are protected without the presence of counsel in the session because minor’s counsel must review and sign any mediation agreement before it is presented to the court. If minor’s counsel does not approve of the agreement reached, the agreement is not	No change was proposed to subdivision (d)(2)(B). Any change that is of a substantive nature, as the commentator here recommends, must be circulated for public comment before the committee takes it under consideration. Subdivision (d)(2)(B) gives the child the right to participate in the dependency mediation process accompanied by his or her attorney. The term “participate” was used to provide flexibility in how the child’s attorney ensures the protection of the child’s interests. The attorney has the discretion to participate in a variety of

SPR04-22
Mediator and Evaluator Education, Experience, and Training Requirements
(amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				submitted and remains confidential.	ways besides attending the mediation session, such as consulting with the mediator before or after the mediation session or reviewing the mediation agreement before it is submitted to the court.
15.	Ms. Barbara Suskind Attorney/Mediator Pleasant Hill	AM	N	<p>1. Rule 1405.5, subdivision (d)(6)(F): The word “and” should be replaced with the word “or” so that it reads “by his or her attorney and or other support persons.”</p> <p>In the county in which I practice, attorneys for the parties, including children’s counsel, do not attend mediation sessions. While I agree that children should be allowed, indeed encouraged, to have a support person at the mediation session, the mediator should be permitted some discretion over who and how many.</p> <p>2. I am pleased to see the changes in rule 1405.5(e)(3).</p>	<p>1. Local courts are authorized to develop protocols concerning who is permitted to participate in the mediation as long as they include the provisions set forth in subdivision (d)(2). Subdivision (d)(2)(D) states that family members, guardians ad litem, CASAs, or other people involved may participate as appropriate.</p> <p>The child, however, has the right to have his or her attorney participate in the mediation. It is within the attorney’s discretion to determine how to participate.</p> <p>2. No response required.</p>