

### **Inquiry 2009-03**

**It has come to our attention that a mediator at our center suffers from a mental illness and was involved in an incident in the past that raises concerns about this mediator's ability to ensure a safe mediation process for parties. While we certainly would not want to discriminate against someone with a mental illness or assume that this person would not be capable as a mediator, we also take seriously our commitment to our clients to provide a quality process in a safe setting. How can our center ensure party safety without discriminating against the mediator?**

**- Submitted by a Director of a Community Dispute Resolution Center**

The subcommittee has reviewed Inquiry 2009-03 and has concluded that the question is beyond the scope of both the Standards of Conduct for New York State Community Dispute Resolution Center Mediators and the Mediator Ethics Advisory Committee and is therefore unable to respond to the question as presented. While the Committee is sympathetic to the Center's need for guidance, the purpose of both the Standards and the Committee is to educate and guide mediators in their practice. It is beyond the scope of this committee's mission to provide guidance such as this to institutional provider organizations. In particular, the inquiry touches on liability issues and other legal issues that the Committee is not equipped to address. The Center may, however, refer to the existing guidelines that address the ethical principles to which provider organization should adhere. One potential source for such guidance may include the CPR-Georgetown Commission on Ethics and Standards of Practice in ADR, Principles for ADR Provider Organizations. Finally, should the center decide to resubmit the inquiry, focused narrowly on an ethics issue from the point of view of the mediator, the committee may reconsider the submission.