UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 13 2010

David Anderson
General Counsel
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

Dear Mr. Anderson:

This is in response to your March 22, 2010 letter to me seeking guidance on whether State educational agencies (SEAs) may dismiss claims raised in a State complaint that were released in a previous settlement agreement resulting from mediation or a resolution session. Specifically, you describe a situation where a local educational agency (LEA) sought the dismissal of a State complaint on the basis that a previous mediation settlement agreement released the LEA from all claims related to the student's education that may or may not have accrued on or before the effective date of the agreement. You ask whether the State is obligated to recognize the release and dismiss the matter just as a court would.

The Individuals with Disabilities Education Act (IDEA or Act) includes various means for a parent of a child with disabilities to resolve a dispute with an LEA relating to the identification, evaluation, or educational placement of, or the provision of a free appropriate public education to, that child. Generally, the options available to parents are (1) mediation, as set out at 34 CFR §300.506, (2) the State complaint resolution system required in §§300.151-300.153, and (3) the impartial due process hearing system under §§300.507-300.517, that includes a pre-hearing resolution process at §300.510. Under 34 CFR §§300.506(b)(7) and section 615(e)(2)(F)(iii) of the Act, a signed written settlement agreement reached through mediation is enforceable in any State court of competent jurisdiction or in a district court of the United States. We note that, in general, a settlement agreement is enforceable only on the parties to the agreement and not on third parties that are not signatories.

Under the IDEA, the State also has an independent obligation to ensure that its LEAs are in compliance with State and Federal requirements that apply to the education of children with disabilities. See 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §§300.149 and 300.600(e). The State complaint process is one method for States to investigate and ensure compliance. Moreover, the IDEA regulations that apply to State complaint procedures allow for allegations that relate to a specific child or to systemic violations for a group of children. 34 CFR §300.153. Significantly, the regulations also provide that where a State complaint raises the same issue, involving the same parties, that was already decided in a due process hearing, the hearing decision is binding on the issue and the State must inform the complainant to that effect. 34 CFR §300.152(c)(2).

In the situation you describe, the LEA is seeking to have the State complaint dismissed based on an existing settlement agreement reached through mediation between the LEA and the parents. You do not address whether the allegations in the State complaint are specific to the child or are broader. To the extent that the State complaint only alleges violations specific to the child who is the subject of the settlement agreement, as with a due process hearing decision, the State may determine that the settlement agreement is binding on these parties as to one or more issues in the complaint and inform the complainant to that effect. However, if the State complaint alleges systemic noncompliance or the State has reason to believe that the violations are systemic, it must investigate the matter. If the State finds systemic violations, it must provide for appropriate remedies to other affected students, including corrective actions to address both past violations and future compliance. 34 CFR §300.151(b). Moreover, nothing in the IDEA prevents a State from using information from State complaints as part of its broader monitoring procedures (e.g., when determining whether an LEA merits a focused review).

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

If you have additional questions, please do not hesitate to contact Laura Duos in Office of Policy and Planning at 202-245-6772 or by email at Laura. Duos@ed.gov.

Sincerely,

Alexa Posny

Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs