



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

OCT 30 2008

Dr. Carol Ann Baglin
Assistant State Superintendent
Division of Special Education/
Early Intervention Services
200 West Baltimore Street
Baltimore, MD 21201

Dear Dr. Baglin:

This is in response to your letter to me, dated March 21, 2008, in which you request a clarification of 34 CFR §300.510, *Resolution Meeting Process*, including the discussion that appears in the Analysis of Comments and Changes to the regulations implementing the Individuals with Disabilities Education Act (IDEA) in the Federal Register, Vol. 71, No. 156. I apologize for the delay in responding.

Your letter was prompted by an inquiry from Montgomery County Public Schools (MCPS), a local educational agency to which the Maryland State Department of Education (MSDE) provides Federal funds under the IDEA and provides general supervision as required by 34 CFR §300.149. MSDE had received a written State complaint alleging that MCPS required parents to sign a confidentiality agreement as a precondition to conducting a meeting to attempt to resolve a due process complaint. MSDE conducted an investigation and on January 28, 2008 issued a Letter of Findings (LOF) to MCPS stating that MCPS may *not* require a parent to sign a confidentiality agreement as a precondition to conducting a resolution meeting and entering into good faith efforts to resolve a dispute. MCPS wrote you on February 28, 2008, properly stating that MCPS would comply with the corrective actions required by the LOF, but questioning whether MSDE's interpretation in the LOF was in keeping with Congressional intent.

As noted in the Analysis of Comments and Changes for the August 14, 2006 final regulations, there is nothing in the IDEA or the implementing regulations that would prohibit the parties to a resolution meeting from entering into a confidentiality agreement as a part of their resolution agreement. (See, Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities, Final Rule, 71 Fed. Reg. 46540, 46704 (Aug. 14, 2006)). However, an LEA may not require a confidentiality agreement as a precondition for holding a resolution meeting. The Part B regulations, at 34 CFR §300.510(a)(1) specify that “[within 15 days of receiving notice of the parent’s due process complaint . . . the LEA **must convene** a meeting with the parent . . .” (Emphasis added). The only reasons that an LEA would be excused from convening the resolution meeting are those specified in 34 CFR §300.510(a)(3), none of which address confidentiality agreements. Nor is there any separate requirement, such as that in 34 CFR §300.506(b)(8) regarding mediation, that parties to resolution meetings keep the discussions that occur in resolution meetings confidential.

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 further questions about this issue, please do not hesitate to contact Deborah Morrow at 202-245-7456.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Knudsen". The signature is fluid and cursive, with a long horizontal stroke at the end.

William W. Knudsen
Acting Director
Office of Special Education
Programs