



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

SEP 12 2002

Mr. David K. Greer
Assistant Legislative Auditor
Office of Legislative Auditor
State of Louisiana
P.O. Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Mr. Greer:

This is in response to your letter dated June 24, 2002 to Assistant Secretary Robert Pasternack, Office of Special Education and Rehabilitative Services (OSERS). You requested a legal opinion on whether a particular provision of State law would prohibit Louisiana's independent administrative law judge panel from conducting due process hearings under the Individuals with Disabilities Education Act (IDEA) and whether the IDEA itself would prohibit the State's administrative law judge panel from holding those hearings.

Generally, neither the courts nor OSERS have interpreted the 'conducted by' language in 20 USC 1415(f)(1) and (g) to literally mean that only individuals under contract to the State educational agency (SEA) or local educational agency (LEA) can preside at IDEA due process hearings. In a State with a one-tier system, it would not be inconsistent with IDEA, if the State Educational Agency (SEA) used an administrative law system to administer the due process system under IDEA as long as the requirements of IDEA are met, including the requirements of 34 CFR §§300.508 through 300.511. In a State with a two-tier system, it would not be inconsistent with IDEA if the SEA used an administrative law system to administer the impartial appeal process under IDEA so long as the requirements of IDEA, including the regulatory provisions mentioned above, are met.

As a general matter, the Office of Special Education Programs does not interpret State law, or opine about its application, unless State law appears to conflict with Federal requirements. You may wish to direct this aspect of your inquiry to appropriate State legal officials. I hope this information is helpful to you. If you have any questions, please do not hesitate to contact Dr. JoLeta Reynolds at (202) 205-5507.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie S. Lee".

Stephanie S. Lee
Director
Office of Special Education Programs