It Took me Years to Write, Will you Take a Look: How To Write Up State Complaint Investigation Reports And Hearing Officer Decisions

Jim Gerl
Scotti & Gerl
Lewisburg, WV 24901
jimgerl@yahoo.com email
blog: http://specialeducationlawblog.blogspot.com/

Written Materials to Accompany
A Presentation a Presentation for the
CADRE National Symposium
Professional Development Institute
October 16 - 20, 2017
Eugene, Oregon

I. INTRODUCTION

There are four dispute resolution mechanisms provided by the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq, (hereafter sometimes referred to as "IDEA") and the accompanying federal regulations: mediation, state complaints, resolution sessions, and due process hearings. A fifth method of dispute resolution- the facilitated IEP team meeting- has been successfully implemented in many states, but a written final document is not generally a part of the facilitator's responsibility.

The state complaint and hearing processes require that a document be written up at the end of the process. A state complaint investigator concludes the process with a written report. A due process hearing officer writes a decision. In each case the written product is critical to the dispute resolution process.

The decision or report is the only portion of our work that many people ever see. Our written documents should reflect well upon us; they are our **professional product**. It is extremely important, therefore, that our decisions and reports be well reasoned and that all documents be understandable, clear and well written. They are the conclusion of the dispute resolution process, and, accordingly, are extremely important to the parties, and the child with a disability. Reviewing courts and officers receive no other communications from us. Our decisions and agreements represent us to the rest of the world. Our reputations as dispute resolution professionals depend upon **high quality** written products.

Legal Citations for IDEA Dispute Resolution:

State complaints procedures are set forth in the federal regulations at 34 C.F.R. §§ 300.151 – 300.153.

Mediation is provided for in IDEA at § 615(e). See 34 C.F.R. § 300.506.

Due process hearings (as well as resolution sessions) are described in the IDEA at § 615 generally, especially sub§ (f) and (k). See, 34 C.F.R. § 300.507 to 300.515, and 300.532 to 300.533.

Here is a Q & A document from OSEP on Dispute Resolution Procedures under IDEA Part B, 61 IDELR 232 (OSEP 7/23/13). For mediation, see Q A-1 to A-28; for state complaint procedures, see Q B-1 to B- 34; for due process, see Q C-1 to C-27; for the resolution process, see Q D-1 to D-25, and for expedited hearings see Q E-1 to E-9:

http://www.directionservice.org/cadre/pdf/OSEP_Q&A_memo7-23-13.pdf

This link is to the NICHCY Training Program – Module 18: Options for Dispute Resolution:

http://www.nichcy.org/Laws/IDEA/Pages/module18.aspx

II. State Complaint Investigation Reports

Each state education agency must maintain a state complaint procedure as one of the dispute resolution mechanisms under IDEA. 34 C.F.R. §§300.151-300.153. OSEP has stated that the state complaint system is required pursuant to the general supervisory responsibility of the SEA, even though Congress has not specifically provided or addressed a state complaint system in the IDEA. Analysis of Comments, 71 Fed. Register No. 156 at page 46606 (OSEP August 14, 2006).

- After reviewing all relevant information, the complaint investigator must make an independent decision as to whether IDEA has been violated and issue a written decision that addresses each allegation and contains findings of fact and the reasons supporting the SEA's final decision. 34 C.F.R. §300.152(a)(4)and (5)
- Where a state complaint investigator finds that IDEA has been violated, a corrective action is ordered. The relief that may be awarded includes compensatory education and reimbursement. 34 C.F.R. § 300.151(b). The purpose of this change to the federal regulations in 2006 was to make it clear

that states have broad flexibility in awarding an appropriate remedy, including awarding monetary reimbursement and compensatory services, in resolving state complaints. Analysis of Comments, 71 Fed. Register No. 156 at page 46602 (OSEP August 14, 2006).

The report/decision of the complaint investigator should have the following components:

- A brief Introduction
- A Statement of the Issue(s) Presented
- Findings of Fact
- A Conclusion or Resolution as to Each Issue
- Discussion or Similar Section Explaining Your Reasoning

Some Sample State Complaint Report Templates:

Michigan State Complaint Report Template:
http://www.directionservice.org/cadre/exemplar/artifacts/MI-4%20StateLevelFinalInvestigationReport%2012.15.10.pdf

Idaho Corrective Action Template:
http://www.directionservice.org/cadre/exemplar/artifacts/ID-13%20CAP%20Template.pdf

Concerning the findings of fact, the report/decision should find facts. Your findings of fact should be written as facts; they are not contentions, they are facts. You should include only facts of decisional significance. (Although there are many good ways to write a decision, if you are having trouble determining which facts are decisionally significant, consider writing the findings of fact last.)

Findings should be carefully prepared. Findings of fact should not simply regurgitate the interviews.

Because they are facts, findings should also not be inferences. You can explain your logic in the discussion section of your report/decision. Similarly, findings are no place for contentions of the parties.

Generally findings should be stated in the past tense. The facts being found almost always have happened prior to the hearing. Definite language is preferred over uncertain language. Findings should be stated as simple facts and not qualified unless necessary to reflect the record accurately. For example, findings should not include…"it appears that," "it seems that" or "tends to be."

The investigator should anchor each finding to the record, either a document or the interview of a witness or both.

It is critical that the complaint investigator explain her reasoning as to each conclusion. This helps with future compliance as well as with understanding of the current violation. It also helps a parent understand the decision. If the key constitutional theme underlying the investigation is the right to be heard, the theme underlying the report/decision is the right to know why. Both are critical components of due process. Explain your ruling(s) in your report/decision.

Be mindful of your audience. The parents and the public agency staff should be able to read and understand the report/decision. Avoid legalese and school jargon. Use plain English to the extent possible. Be clear. Unless it is necessary for clarity, don't use charts, footnotes, or graphs. Try to make sure that your decision will be understood by its readers. Avoid Latin and other foreign language words or phrases. Simple and plain language is preferable. If the timelines permit, a good technique is to prepare a draft, sleep on it, redraft it, sleep on it again, and then finalize it.

Be concise. Avoid excessive verbiage. Economy of words is appreciated by the parties as well as reviewing officers and courts. Say what must be said so that the parties understand the outcome, so that the SEA can implement the decision/report, and then stop. This may take a few pages. It is clear, however, that nobody wants to read a telephone book.

If you find the school district to be in compliance note that there was insufficient evidence to support a finding of non-compliance. If you find a violation, order corrective action designed to correct the problem. Use clear language so that the Order may be implemented. Include what, how, where and especially when. Use mandatory (shall) language. Also state what verification documentation must be submitted and the due date for such

documentation. In addition explain what technical assistance resources are available from the SEA.

Sign and date the report/decision.

Excerpt from OSEP Questions & Answers On IDEA Part B Dispute Resolution, 61 IDELR 232 (OSEP 7/23/13):

Question B-30: Once an SEA resolves a State complaint, **what must the SEA's written decision contain**? Answer: Within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is required to issue a written decision to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. 34 CFR §300.152(a)(5). In addition, under 34 CFR §300.152(b)(2), the SEA must have procedures for effective implementation of its final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance. Therefore, if necessary to implement the SEA's final decision, the SEA's written decision must contain remedies for the denial of appropriate services, including corrective actions that are appropriate to address the needs of the child or group of children involved in the complaint. If appropriate, remedies could include compensatory services or monetary reimbursement, and measures to ensure appropriate future provision of services for all children with disabilities. 34 CFR §300.151(b).

OTHER RESOURCES: CADRE Webinar, "A Split in the Road: Issues, Outcomes, and Remedies Between and Within State Complaint and Hearing Officer Decisions," Webinar, written materials and transcript available on CADRE website here: http://www.cadreworks.org/events/split-road-issues-outcomes-and-remedies-between-and-within-state-complaint-and-hearing (including discussion of a reluctance by state complaint investigators to cite caselaw to support findings.)

III. Hearing Officer Decisions

A reasoned decision is a constitutional requirement for an administrative proceeding. Goldberg v. Kelly 397 U.S. 254, 271 (1970). The hearing officer's decision also fulfils the judicially mandated requirement that government provide reasons for its actions. Wichita R. & Light Co. v. Pub. Util. Comm. 260 U. S. 57-59 (1922). The requirement of a reasoned explanation in the form of a decision helps ensure a fair and careful consideration of the evidence and provides assistance to the reviewing courts. Citizens to Preserve Overton Park v. Volpe 401 U. S. 402 (1971).

Our decisions should reflect well upon us; they are our professional product. It is extremely important, therefore, that our decisions be well reasoned and well written. Reviewing courts and officers receive no other communications from us. Our decisions represent us to the rest of the world. Our reputations as hearing officers depend upon high quality written decisions.

The decision is also the final administrative ruling for the parent/student and for the school district. It is imperative that they be able to understand the result of the hearing by reading the decision

Despite the critical importance of the hearing officer decision, there is very little guidance in the statute or regulations concerning the hearing officer's decision. The IDEA provides only that parties have the right to a written, or at the option on the parents an electronic, decision with findings of fact, and that the decision is final subject to appeal. Sections 615(h) and 615(i)(1)(A). The IDEA'04 amendments add that the hearing officer must be able to write decisions in accordance with appropriate, standard legal practice; that a decision about FAPE must be made upon substantive grounds; and that a decision based upon a procedural violation denying FAPE must find that the procedural inadequacy impeded FAPE or the parents' right to participate or caused a deprivation of educational benefits; and that despite the restriction on procedural rulings, a hearing officer may order a district to comply with IDEA requirements. Sections 615(f)(3)(A)(iv), and 615(f)(3)(E). The

federal regulations paraphrase the statutory requirements. 34 C.F.R. Sections 300.512 (a)(5), 300.513, and 300.514(a); 71 Fed. Register No. 156 at page 46705 (August 14, 2006). In addition, the federal regulations add the timelines for the hearing officer decision- requiring a decision within 45 days of the end of any resolution period, pending various potential adjustments. 34 C.F.R. Sections 300.515. In discussing the new federal regulations, the U. S. Department of Education has clarified that a hearing officer still has the authority to issue a decision upon the issue of LRE despite the IDEA'04 amendments. The analysis of comments states that although IDEA'04 and the new regulations impose a new requirement that determinations as to whether a child has received FAPE must be on substantive grounds, "hearing officers continue to have the discretion to …make rulings on matters in addition to those concerning the provision of FAPE…" Federal Register, Vol. 71, No. 156 at p. 46706-7 (August 14, 2006).

Excerpt from OSEP Questions & Answers on IDEA Part B Dispute Resolution, 61 IDELR 232 (OSEP 7/23/13): http://www.directionservice.org/cadre/pdf/OSEP_Q&A_memo7-23-13.pdf

Question C-21: Once the 30-day resolution period or adjusted resolution period expires, what is the **timeline for issuing a final hearing decision**?

Answer: The public agency conducting the due process hearing (either the SEA or the public agency directly responsible for the education of the child) must ensure that not later than 45 days after the expiration of the 30-day resolution period described in 34 CFR §300.510(b) or the adjustments to the time period permitted in 34 CFR §300.510(c), a final decision is reached in the due process hearing and a copy of the decision is mailed to each of the parties. The SEA is responsible for monitoring compliance with this timeline, subject to any allowable extensions described in Question C-22. 34 CFR §§300.149 and 300.600.

Question C-22: When would it be permissible for a hearing officer to **extend the 45-day timeline for issuing a final decision** in a due process hearing on a due process complaint or for a reviewing officer to extend the 30-day timeline for issuing a final decision in an appeal to the SEA, if applicable? Answer: The timelines for due process hearings and reviews described in 34 CFR §300.515(a) and (b) may only be extended if a hearing officer or reviewing officer exercises the authority to grant a specific extension of time at the request of a party to the hearing or review. 34 CFR §300.515(c). A hearing officer may not unilaterally extend the 45-day due process hearing timeline. Also, a hearing officer may not extend the hearing decision timeline for an unspecified time period, even if a party to the hearing requests an extension but does not specify a time period for the extension. Likewise, a reviewing officer may not unilaterally extend the 30-day timeline for reviewing the hearing decision. In addition, a reviewing officer may not extend the review decision timeline for an unspecified time period, even if a party to the review requests an extension but does not specify a time period for the extension.

Question C-23: If an **SEA contracts with another agency** to conduct due process hearings on its behalf, can those decisions be appealed to the SEA? Answer: No. In a one-tier system, the SEA conducts due process hearings. In a two tier system, the public agency directly responsible for the education of the child conducts due process hearings. The determination of which entity conducts due process hearings is based on State statute, State regulation, or a written policy of the SEA. 34 CFR §300.511(b). In a one-tier system, a party Questions and Answers on IDEA Part B Dispute Resolution Procedures Page 45 aggrieved by the SEA's findings and decision has the right to appeal by bringing a civil action in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. 34 CFR §300.516(a). In a one-tier system, an aggrieved party has no right of appeal to the SEA. However, in a two-tier system, an aggrieved party has the right to appeal the public agency's decision to the SEA which must conduct an impartial review of the findings and decision appealed. 34 CFR §300.514(b). A party dissatisfied with the decision of the SEA's reviewing official has the right to bring a civil action in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. 34 CFR §§300.514(d) and 300.516(a). There is nothing in the IDEA that would prohibit a State with a one-tier due process system from carrying out its responsibility by retaining impartial hearing officers under contract to conduct the hearings or contracting with another agency that is not a public agency under the IDEA to conduct the hearings. Because the SEA is the entity responsible for conducting the hearing, there is no right of appeal to the SEA.

Question C-25: Are **"motions for reconsideration"** permitted after a hearing officer has issued findings of fact and a decision in a due process hearing? Answer: As explained in Question C-23, in a one-tier system where the due process hearing is conducted by the SEA, or its agent, a party does not have the right to appeal a decision to the SEA or make a motion for reconsideration. Under 34 CFR §300.514(a), a decision made in a due process hearing conducted by the SEA is final, except that a party aggrieved by that decision may appeal the decision by bringing a civil action in any State court of competent jurisdiction or in a district court of the United States under 34 CFR §300.516. Once a final decision has been issued, no motion for reconsideration is permissible. However, a State can allow motions for reconsideration prior to issuing a final decision, but the final decision must be issued within the 45- day timeline or a properly extended timeline. For example, motions for reconsideration of interim orders made during the hearing would be permissible as long as the final decision is issued within the 45-day timeline or a properly extended timeline. Proper notice should be given to parents if State procedures allow for amendments and a reconsideration process may not delay or deny parents' right to a decision within the time periods specified for hearings and appeals. 64 FR 12614 (March 12, 1999). There may be situations in which the final due process hearing decision contains technical or typographical errors. It is permissible for a party to request correction of such errors when the correction does not change the outcome of the hearing or substance of the final hearing decision. This type of request does not constitute a request for reconsideration as discussed within this response.

Question C-26: What is the **SEA's responsibility** after a due process hearing decision is issued? Answer: Hearing decisions must be **implemented** within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe set by the State as required by 34 CFR §§300.511-300.514. The SEA, pursuant to its general supervisory responsibility under 34 CFR §§300.149 and 300.600, must ensure that the public agency involved in the due process hearing implements the hearing Questions and

 officer's decision in a timely manner, unless either party appeals the decision. If necessary to achieve compliance from the LEA, the SEA may use appropriate enforcement actions consistent with its general supervisory responsibility under 34 CFR §§300.600 and 300.608.

Question C-27: Which public agency is responsible for **transmitting** the findings and **decision**s in a hearing to the State advisory panel (SAP) and making those findings and decisions available to the public? Answer: The entity that is responsible for conducting the hearing transmits the findings and decisions to the SAP and makes them available to the public. In a two tier system where the hearing is conducted by the public agency directly responsible for the education of the child (i.e., the LEA), that public agency, after deleting any personally identifiable information, must transmit the findings and decisions in the hearing to the SAP and make those findings and decisions available to the public. In a one-tier system where the hearing is conducted by the SEA, the SEA must first delete any personally identifiable information and then transmit the findings and decisions in the hearing to the SAP and make those findings and decisions available to the public. 34 CFR §300.513(d). If a State has a two-tier due process system and the decision is appealed, the SEA, after deleting any personally identifiable information, must transmit the findings and decisions in the review to the SAP and make those findings and decisions available to the public. 34 CFR §300.514(c). In carrying out these responsibilities, SEAs and LEAs must comply with the confidentiality of information provisions in 34 CFR §§300.611-300.626. 34 CFR §300.610. OSEP has advised that in a one-tier due process system, the SEA may meet these requirements by means such as posting the redacted decisions on its Web site or another Web site location dedicated for this purpose and directing SAP members or members of the public to that information.

Some states have regulations, policies, rules or manuals that provide further guidance on the matter of hearing officer decisions. Hearing officers should be aware of any such regulations or policies and apply them in their decisions.

OTHER RESOURCES:

1. CADRE Webinar, "A Split in the Road: Issues, Outcomes, and Remedies Between and Within State Complaint and Hearing Officer Decisions," Webinar, written materials and transcript available on CADRE website here: http://www.cadreworks.org/events/split-road-issues-outcomes-and-remedies-between-and-within-state-complaint-and-hearing

2. Some sample hearing officer decisions:

a. Connecticut decision:
http://www.sde.ct.gov/sde/lib/sde/PDF/DEPS/Special/Hearing_Decisions/2013/13_0300and13_0341.pdf

b. Utah decision:
https://schools.utah.gov/file/80fbbaa6-70d3-4b0f-89de-987a7e580357; In Re Student With A Disability 63 IDELR 205 (JG) (SEA UT 6/9/14)

c. West Virginia decision:
https://wvde.state.wv.us/osp/compliance/documents/D09-014.pdf; In Re Student With A Disability 52 IDELR 239 (SEA WV 4/8/09)

d. Pennsylvania decision:
http://odr-pa.org/uploads/hearingofficerdecisions/14254-13-14.pdf ; Mifflinburg Area Sch Dist (JG) 114 LRP 17516 (SEA Penna 3/18/14)

Top Eight General Rules for Writing a Decision

Although the style of decision writing by hearing officers varies widely, there are some general rules that apply to good decisions. The following eight general rules have been derived from my experience as a hearing officer. These general rules provide some basic guidance on decision writing.

1. Be Fair
2. Appear to be Fair
3. Be Careful, Thorough and Thoughtful
4. Find Facts
5. Apply the Rule of Law: Make and Explain Conclusions
6. Resolve All Issues/ State Reasons
7. Make a Clear Order/ Award Relief
8. Be Clear and Concise

V. Caselaw Concerning Decisions and Reports

A. State Complaint Investigation Reports

1. A complaint investigator must resolve a state complaint. An investigator may not rule that she was unable to determine whether the district violated IDEA. If more information is necessary, the investigation must continue until a determination may be made. Manalansan v Bd of Educ Baltimore City 35 IDELR 122 (D. Md 2001).

2. Once an SEA resolves a State complaint, whether it be through its investigation or by accepting the LEA's proposal to resolve the complaint, within 60 days of the date that the complaint was filed, subject to allowable extensions, an SEA is **required to issue a written decision** to the complainant that addresses each allegation in the complaint and contains: (1) findings of fact and conclusions; and (2) the reasons for the SEA's final decision. 34 CFR § 300.152(a)(5). Letter to Lipsitt 67 IDELR 126 (OSEP 9/18/15).

3. Letter to Reilly 64 IDELR 219 (OSEP 11/3/14) In a state complaint, the parent does **not** have the **burden of proof**. Once a complaint is filed, the SEA has the obligation to investigate, collect evidence and reach a conclusion. OSEP noted that a **preponderance** of the evidence standard for determining whether there has been a violation is consistent with IDEA.

4. Letter to Zirkel 68 IDELR 142 (OSEP 8/22/16) OSEP opined that an SEA must generally ensure that an SD completes the corrective action ordered by a state complaint investigator by the deadline in the report, but **not more than one year**. The one year limit is not meant to limit the SEA's ability to fashion an appropriate remedy (which could require more than one year.)

5. Letter to Deaton 65 IDELR 241 (OSEP 5/19/15) Where an SEA **orders corrective action** following a state complaint investigation and the parent then files a dph on the same issue, the SEA **must ensure** that the corrective action is **completed** within the timeframe ordered. The SEA **may not wait** for the result of the dph in these circumstances. SEAs have broad flexibility to determine appropriate remedy or corrective action necessary to resolve a state complaint, including reimbursement and compensatory services. Answering the question

asked- relief may include child specific services- including modifications or amendments to an IEP.

B. Hearing Officer Decisions

1. PC & KC by AC v Rye City Sch Dist 69 IDELR 122 (SD NY 2/7/17) @n.9 and n.16 (and surrounding text). The Court described the HO decision after seventeen days of testimony as "**rambling, incomplete**… frankly, an **embarrassment**," and ordered a copy of the decision to be sent to the officials responsible for certification of IHOs. The court stated that the decision "…at many points appears to be incomplete, **sloppily assembled** and poorly written. The apparent failure to finish, let alone polish the decision resulted in a document that is not just difficult and unhelpful, but substantively flawed. The HO reached two **different conclusions** as to one issue. The **first ninety pages** of the decision are a rambling and often i**ncoherent summary** of the testimony with some paragraphs consuming five to ten pages.

2. LO by DO & DO v East Allen County Sch Corp 64 IDELR 147 (ND Ind 9/30/14) Court reversed and vacated **inconsistent** HO decision. HO found that student was clearly not eligible in 09-10 school year and that SD had failed to implement 10-11 IEP and awarded compensatory education. After SD pointed to certain evidence, HO issued an amended decision ordering compensatory education for failing to find the student eligible in 09-10 school year. Court found that the change to the decision was contradicted by the remainder of the decision. Also HO order requiring AT assessment was inconsistent w findings of fact re student did not need AT. HO order for SD to take reasonable steps to prevent bullying was not supported by the record evidence that showed that SD had taken reasonable corrective actions. **{surprise ending never good}**; IS by Sepiol v Sch Town of Munster 64 IDELR 40 (ND Ind 9/10/14) Court criticized HO decision as **inconsistent** where SD would continue to use a methodology that wasn't working for a second school year after HO had found that it denied FAPE for the same thing in first school year; QD by Mr & Mrs D 51 IDELR 41 (D. RI 9/8/8) The court noted that the HO's decision was flawed by a number of **inconsistencies** and

mistakes, most notably misattribution of the sources of evidence for the facts found.

3. BH by JH & JH v Johnston County Bd of Educ 65 IDELR 66 (EDNC 3/19/15) Court reversed Ho and SRO decision where they **failed** to make **findings** of fact or corresponding **conclusions** of law on **numerous issues** raised by the parents' claim. The HO decision which was summarily adopted by the SRO is **virtually a wholesale adoption of the SD's proposed final decision.** A line by line comparison reveals that the **HO adopted with no substantive modifications all 480** findings of fact and **79** conclusions of law proposed by the SD;

4. LB & FB ex rel JB v NYC Dept of Educ 68 IDELR 195 (SDNY 9/27/16)@n.12 HO **improperly relied upon testimony** of witness concerning writing based goals even though witness **dramatically changed** testimony later on; JM by Mandeville v Dept of Educ, State of Hawaii 69 IDELR 31 (D Haw 12/1/16) Although ho decision contained **errors**, such as **attributing** the testimony of one witness to another witness and some of **ho's findings** were "open to interpretation" as a whole the decision was thorough and careful and well-reasoned, therefore substantial deference; CB & TB ex rel HB v NYC Dept of Educ 68 IDELR 15 (EDNY 6/16/16) No deference where SRO made **no findings** as to a particular **issue**; . LaGue v Dist of Columbia 66 IDELR 101 (DDC 9/16/15) The need for remand was particularly obvious where some of HO's **findings are unexplained** and others are stated in **hypothetical form**; Contrast, Sacramento City Unified Sch Dist v RH by JH & KH 68 IDELR 220 (ED Calif 10/6/16) Court rejected SD arguments that HO committed **factual errors** in decision as tiresome attempts to chip away at HO's reasoning;

5. Perrin ex rel JP v Warrior Run Sch Dist (JG) 66 IDELR 225 (MD Penna 9/16/15) adopted by district court at 66 IDELR 254 (MD Penna 11/4/15) {affirming HO decisions at 113 LRP 39220 and 64 IDELR 260} Court found that HO **properly explained and justified** his credibility findings where he found testimony of mom **less credible and persuasive** than the testimony of SD witnesses where there were serious inconsistencies in mom's testimony, where she overstated student's injuries and where she contradicted the parties' stipulations; Stepp ex rel MS v Midd West Sch Dist (JG) 65 IDELR 46 (MD Penna 2/23/15) {affirming HO decisions @112 LRP 45128 and 113 LRP 16891} Court affirmed HO determination that the testimony of parent's expert

school psychologist was entitled to **no weight** where his testimony was not credible or persuasive and contained contradictions; (JG) AM v Dist of Columbia 933 F.Supp.2d 193, 61 IDELR 21 (DDC 3/28/13) Court ruled that HO **credibility findings** were **supported** by the evidence in the record.

6. Timothy O & Amy O ex rel LO v Paso Robles Unified Sch Dist 822 F.3d 1105, 67 IDELR 227 (9th Cir 5/23/16) Ninth Circuit held that HO decision that concluded that SD need not evaluate student for autism was **not supported by record evidence**; South Kingston Sch Committee v Joanna S ex rel PJS 64 IDELR 191 (1st Cir 12/9/14) First Circuit ruled that district courts must give due deference to the hos superior educational expertise. Level of review is "involved oversight" i.e., somewhere in between the highly deferential "clear error" standard and the non-deferential "de novo" standard. Here the court rejected four findings of fact as **not supported by the record**; JG by Jimenez v. Baldwin Park Unified Sch Dist 65 IDELR 177 (CD Calif 3/20/15) Court rejected HO's analysis where she **mischaracterized** the evidence, **ignored** mom's testimony, **failed to mention** the student's testimony, and where HO's analysis was not thorough and did not give a **fair representation** of the record; Scott ex rel CS v NY City Dept of Educ 63 IDELR 43 (SDNY 3/25/14) conclusions **not supported** by record; SRO failed to consider significant evidence; failed to **address** obvious weaknesses and gaps in evidence; **mischaracterized** evidence; and improperly substituted credibility determinations for those of ho who observed testimony; Howard G ex rel Joshua G v State of Hawaii, Dept of Educ 62 IDELR 292 (D Haw 2/24/14) HO decision not supported by the record; Cupertino Union Sch Dist v KA by SA & JS 64 IDELR 200 (ND Calif 12/2/14) Court remanded where HO award of compensatory education was not supported by the record; ho's award was hour-for-hour with no analysis of educational harm; Pointe Educ Services v AT 63 IDELR 279 (D Ariz 8/14/14) Court ruled that HO's findings were **not supported** by the evidence and disagreed with ho's credibility analysis; KE by KE & TE v. Independent Sch Dist # 15 54 IDELR 215 (D Minn 5/24/10) Court reversed HO where a number of the HO's findings were **not supported by evidence** in the record; Fort Osage R-1 Sch Dist v. Sims ex rel BS 55 IDELR 127 (WD Missouri 9/30/10) Court found that HO panel's findings of fact were not **supported by the evidence** and reversed the decision; Contrast, MT ex rel NM v NYC Dept of Educ 68

IDELR 65 (SDNY 8/5/16) HO addressed the evidence and the decision was **supported** by the **record**, therefore deference; NR by BR v San Ramon Valley United Sch Dist 107 LRP 7500 (N.D. Calif 1/25/7) Where HO decision omitted key findings of fact, and the HO ignored certain evidence and the HOs conclusions were **not based** upon record **evidence**, the court considered the evidence de novo; See, Forest Grove Sch Dist v Student 63 IDELR 163 (D Ore 6/9/14)(ignored contradictory evidence).

7. WW ex rel MC v NY City Dept of Educ 63 IDELR 66 (SDNY 3/31/14) SRO decision **failed to address** two issues (composition of IEPT & whether school too large) therefore court remanded; McNeil v Dist of Columbia 68 IDELR 271 (DDC 11/9/16) HO erred by **addressing only one of two issues** in dpc (failure to comply with previous ho decision and substantive adequacy of later IEP.) Affirmed as to the one discussed, remanded as to other issue; Kent Sch Dist v NH & DM ex rel CM 68 IDELR 276 (WD Wash 11/3/16) Court ruled that HO erred by considering an **issue not in dpc**. Dpc raise whether SD implemented IEP provision re 1:1 nurse for first grade student with OHI, but HO decision considered whether SD provided a substitute nurse on days when regular nurse not there.; Damarcus S by KS v Dist of Columbia 67 IDELR 239 (DDC 5/23/16) Court reversed HO for placing a **time limit** requiring that all **compensatory education** be finished by June 2016 as **arbitrary** and an abuse of discretion where HO gave **no explanation** for the time limit and no explanation of denial of IEE. HO also erred by awarding behavioral services but no remedy for academic harm; PM v City Sch Dist of City of NY 67 IDELR 4 (SDNY 1/26/16) No deference where SRO did not squarely address the issue of therapeutic placement; FB & FB ex rel LB v NY City Dept of Educ 923 F.Supp.2d 570, 60 IDELR 189 (SD NY 2/14/13) Court remanded to SRO for ruling on issues raised by dpc but not addressed in first tier HO decision; Lofisa S ex rel SS v State of Hawaii, Dept of Educ 60 IDELR 191 (D Haw 2/13/13) Court reversed HO who ruled on issues not raised by dpc; Dist of Columbia v. Pearson ex rel JP 60 IDELR 194 (DDC 2/8/13) Ct ruled that HO erred by raising the issue of student's truancy on her own volition where not in dpc or amendment thereto; AM by YN v NY City Dept of Educ 61 IDELR 214 (SD NY 8/9/13) Court refused to consider issue re ESY not stated in dpc; GI by GI & KI v Lewisville Independent Sch Dist 61 IDELR 298 (ED Tex 7/30/13) Parent was not allowed to

raise an assistive technology argument on appeal where not in dpc and not mentioned at PHC where ho went over each issue.

8. Rodriguez & Lopez ex rel CL v Independent Sch Dist of Boise City # 1 63 IDELR 36 (D Idaho 3/28/14) Court declined to defer to ho decision that was **sparse and conclusory** on one issue; MO v Dist of Columbia 62 IDELR 6(DDC 6/30/13) Court remanded case to HO where decision **failed to explain** his reasoning for concluding that LEA considered information provided by parents to IEPT. Conclusory statements were insufficient; A by Mr A v Hartford Bd of Educ 68 IDELR 40 (D Conn 7/19/16) Court remanded case to HO where HO decision did **not explain credibility** determinations **or** the **HO's reasoning** in denying parent request for a home program by a BCBA for a middle school student with autism; FL & ML ex rel FL v NYC Dept of Educ 67 IDELR 266 (SDNY 6/8/16) Court remanded where SRO decision was **unclear** regarding whether SD provided FAPE because it was not clear whether a paraprofessional could provide the support required by a 15 year old with autism and where SRO placed **burden** on wrong party re first prong of unilateral placement (state law places burden on SD re first prong and on parents re second and third prongs.); Somberg v Utica Community Schs 67 IDELR 139 (ED Mich 3/30/16) No deference where HO decision did **not explain or justify** HO's reasoning; QC-C v Dist of Columbia 67 IDELR 60 (DDC 2/16/16) Little deference where court disagrees with HO's reasoning(??);AB v Baltimore City Bod of Sch Commissioners 66 IDELR 40 (D Md 8/13/15) Court criticized HO stay put order as **unclear** where HO ordered the private school named in a mediation agreement as stay put placement for the school year. Court interpreted HO to mean =stay put until litigation finished. Stay put order was also **problematic** because HO incorrectly questioned his authority to make SD pay for stay put placement; AB v Baltimore City Bod of Sch Commissioners 66 IDELR 40 (D Md 8/13/15) Court criticized HO stay put order as **unclear** where HO ordered the private school named in a mediation agreement as stay put placement for the school year. Court interpreted HO to mean =stay put until litigation finished. Stay put order was also **problematic** because HO incorrectly questioned his authority to make SD pay for stay put placement; LJ by VJ & ZJ v. Audubon Bd of Educ 49 IDELR 6 (D.NJ 11/5/7). Court criticized HO decision as **unclear**. Because the order did not specify the relief to be awarded, the court looked to the

reasoning of the HO and the findings to fashion an order granting relief; Gail A ex rel Zachary A v. Marinette Sch Dist 48 IDELR 73 (E.D. Wisc. 3/22/7). HO decision was so **unclear** regarding the arguments raised that the court remanded the case to the HO.

9. Marshall Joint Sch Dist No 2 v. CD by Brian & Traci D 616 F.3d 632, 54 IDELR 307 (7th Cir 8/2/10) Seventh Circuit reversed HO who had applied the **wrong** legal **standard** for eligibility (HO determined that disability could affect ed performance not that it did affect performance); See, Forest Grove Sch Dist v Student 63 IDELR 163 (D Ore 6/9/14) Mgst gives little deference where ho findings were not careful (no **discussion** of witness testimony) and little deference to ho conclusions of law where ho failed to support them with **caselaw** and where ho ignored contradictory evidence and where ho imposed an arbitrarily high **legal standard** despite decades of court interpretations of IDEA; Kent Sch Dist v NH & DM ex rel CM 68 IDELR 276 (WD Wash 11/3/16) Court reversed HO who used the wrong legal standard-Rowley rather than materiality of IEP implementation; Swanson by Swanson-Houston v Yuba City Sch Dist 68 IDELR 215 (ED Calif 10/13/16) HO did not apply the wrong legal standard where he cited a vacated case where the proposition stated was still good law and case was reversed on other grounds; Sacramento City Unified Sch Dist v RH by JH & KH 68 IDELR 220 (ED Calif 10/6/16) HO applied the correct legal standard in determining that SD denied FAPE; Court rejected SD argument that HO improperly applied the ADA **legal standard** for effective communication to an IDEA claim where HO followed IDEA case law; Cobb County Sch Dist v DB by GSB & KB 66 IDELR 134 (ND Ga 9/28/15) HO affirmed where his judgment was sound, he applied correct legal standard, and his findings were supported by record evidence; DeKalb County Bd of Educ v Manifold ex rel AM 65 IDELR 268 (ND Ga 6/16/15) Court rejected SD argument that HO improperly applied the ADA **legal standard** for effective communication to an IDEA claim where HO followed IDEA case law; Grants Pass Sch Dist v Student 65 IDELR 207 (D Or 4/29/15) Court reversed HO who applied wrong **legal standard**, **ignored contradictory evidence**; made **inconsistent** determinations and **miscalculated** compensatory education;

10. Rachel H v Dept of Educ, State of Hawaii 63 IDELR 155 (D Haw 6/18/14) Court gives more deference where ho's findings are thorough and careful; here substantial deference where ho gave **careful**

consideration to post hearing briefs and ho participated in **questioning** witnesses and showed strong familiarity with the evidence; DM & JM ex rel MM v Seattle Sch Dist 68 IDELR 165 (WD Wash 9/9/16) HO's **questioning of witnesses** and detailed factual and legal **analysis** made decision worthy of deference;

11. Swanson by Swanson-Houston v Yuba City Sch Dist 68 IDELR 215 (ED Calif 10/13/16) Court ruled that where HO considered all arguments by the parties, it was acceptable for HO to **rephrase issues**.

12. SD ex rel HV v Portland Public Schs 64 IDELR 74 (D Maine 9/19/14) Court reversed HO's conclusion that the parent was to blame for IEP implementation failure because of her **demanding, blaming and insistent** attitude. Instead the court found that the **HO overstated** the parent's culpability and held that the denial of FAPE was the result of a badly drafted IEP with improper PLEPs.

13. Sch Union No. 37 v. Mrs C ex rel DB 518 F.3d 31, 49 IDELR 179 (1st Cir 2/26/8) First Circuit upheld the district court conclusion that HO decision lacked **persuasiveness** where it erroneously failed to find a six year delay in bringing a complaint to be unreasonable. Las Virgienes Unified Sch Dist v SK by JK & BK 54 IDELR 289 (CD Calif 6/14/10) HO decision was **not** entitled to deference because it was not careful and thorough. (no references to testimony or exhibits; serious errors re facts, eg time draft IEP was written); KE by KE & TE v. Independent Sch Dist # 15 54 IDELR 215 (D Minn 5/24/10) Court reversed HO where a number of the HO's findings were **not supported by evidence** in the record; Suggs v. District of Columbia 679 F.Supp.2d 43, 53 IDELR 321 (D DC 1/19/10) Court remanded case to HO where Ho did **not explain his reasoning**; HO cannot simply **disregard evidence**, HO must consider it, evaluate it and explain its impact upon his decision; Fort Osage R-1 Sch Dist v. Sims ex rel BS 55 IDELR 127 (WD Missouri 9/30/10) Court found that HO panel's findings of fact were not **supported by the evidence** and reversed the decision; Marc M ex rel Aidan M v. Dept of Educ, State of Hawaii 762 F.Supp.2d 1235, 56 IDELR 9 (D Haw 1/24/11) Court declined to give deference to HO decision where conclusions were **sparse and cursory** and **not linked to the facts developed at hearing**; SF & YD ex rel GFD v. New York City Dept of Educ 57 IDELR 287 (SDNY 11/9/11) Court found that HO analysis was not entitled to deference where he did **not carefully**

consider the evidence (3/4 of a page double spaced in decision), but did give deference to SRO who carefully considered the evidence (nearly 3 single spaced pages); R-RK by CK v. Dept of Educ, State of Hawaii 57 IDELR 70 (D Haw 8/1/11) Court did not give deference to HO decision that was not carefully **reasoned**. SB by Dilip B & Anita B v. Ponoma Unified Sch Dist 50 IDELR 72 (C.D. Calif 4/15/8) HO decision was careful, impartial and sensitive to the complexities of the issues, but the court reversed where it disagreed as to the key conclusions of law. P by Peyman v. Santa-Monica Malibu Unified Sch Dist 50 IDELR 220 (C.D. Calif 7/6/8) Court reversed HO where the decision **ignored crucial** undisputed **testimony** by the parent's expert and where HO's reasons for discounting the expert were **not persuasive**. Cranston Sch Dist v. QD by Mr & Mrs D 51 IDELR 41 (D. RI 9/8/8) The court noted that the HO's decision was flawed by a number of **inconsistencies and mistakes,** most notably misattribution of the sources of evidence for the facts found. Hunter v. District of Columbia 51 IDELR 34 (D. DC 9/17/8) Court remanded a due process hearing to a HO where decision concluded no denial of FAPE without discussing parent's unrebutted testimony that the student regressed under his 2004 IEP, yet 2006 IEP was nearly identical. EM by EM & EM v. Pajaro Valley Unified Sch Dist 51 IDELR 105 (N.D. Calif 10/17/8) HO decisions should be supported by fairly detailed factual findings to permit judicial review. Here court **remanded** the matter back to the HO for further explanation of why he favored one intelligence test over another and **how he evaluated** all of the mixed test data in concluding that the student was not eligible for special education.

14. **mistakes** JG by Jimenez v. Baldwin Park Unified Sch Dist 65 IDELR 177 (CD Calif 3/20/15) Court rejected HO's analysis where she **mischaracterized** the evidence, **ignored** mom's testimony, **failed to mention** the student's testimony, and where HO's analysis was not thorough and did not give a **fair representation** of the record; JM by Mandeville v Dept of Educ, State of Hawaii 69 IDELR 31 (D Haw 12/1/16) Although ho decision contained **errors**, such as **attributing** the testimony of one witness to another witness and some of **ho's findings** were "open to interpretation" as a whole the decision was thorough and careful and well-reasoned, therefore substantial deference; Contrast, Sacramento City Unified Sch Dist v RH by JH & KH 68 IDELR 220 (ED Calif 10/6/16) Court rejected SD arguments that HO committed **factual**

errors in decision as tiresome attempts to chip away at HO's reasoning; York County Sch Dist 49 IDELR 178 (SEA SC 1/24/8) SRO criticized HO decision that contained numerous errors, but upheld the decision where the ultimate finding (FAPE provided) was correct.

15. **fs of f** LaGue v Dist of Columbia 66 IDELR 101 (DDC 9/16/15) The need for remand was particularly obvious where some of HO's **findings are unexplained** and others are stated in **hypothetical form**; Upper Perkiomen Sch. Dist. 106 LRP 20190 (SEA Pa. 3/13/6) Although merely **reciting** testimony instead of finding facts is clearly not the best practice, credibility determinations of the hearing officer should ordinarily receive deference; CB & TB ex rel HB v NYC Dept of Educ 68 IDELR 15 (EDNY 6/16/16) No deference where SRO made **no findings** as to a particular **issue**; Hansen ex rel JH v Republic R-III Sch Dist 632 F.3d 1024, 56 IDELR 2 (8th Cir. 1/21/11) After parent's case, school district elected not to put on any evidence and moved for a directed finding. HO panel granted the motion and issued a one paragraph decision in the school district's favor without any findings of fact. Eighth Circuit found that HO panel decision was entitled to no deference because **no facts were found**; Options Public Charter Sch v. Howe ex rel AH 48 IDELR 282 (D.DC 9/26/7) Court rejected HO decision as inadequate where it stated the issues ambiguously, relied upon speculation and contained **no findings of fact or conclusions of law**. Instead of finding facts, HO's language included "it is entirely conceivable that," and it is most probable that the provision of FAPE…might have required…; Pittsburgh Sch Dist 46 IDELR 233 (SEA PA 10/27/6) SRO panel reversed HO who failed to make findings of fact and conclusions of law specific to FAPE; Lakeview Lochl Sch Dist 107 LRP 11268 (SEA Ohio 10/11/6) SRO reversed HO decision that was against the weight of the evidence and which **lacked adequate findings** of fact and **conclusions** of law; Bd of Educ of the E. Islip Union Free Sch Dist 106 LRP 71800 (SEA NY 11/21/6) SRO reversed HO who had ruled IEP inappropriate without making any findings concerning the development of the IEP;

16. **Do not delegate**: Bd of Educ of Fayette County, KY v. LM ex rel TD 107 LRP 10801 (6th Cir. 3/2/7). The Sixth Circuit held that it is improper for a HO to remand a case to the IEP team for determination of compensatory education. The court reasoned that a hearing officer may not be employed by an LEA, and, therefore, IEP teams, which

include LEA employees, cannot be **delegated** the duty of fashioning relief. HO must determine the remedy for an IDEA violation.; Reid ex rel Reid v. District of Columbia 401 F.3d 516, 43 IDELR 32 (D.C. Cir. 3/25/05); MS by JS v Utah Schs for the Deaf & Blind 67 IDELR 195 (10th Cir 5/10/16) (same); Contrast, Bd of Educ of the South Huntington Union Free Sch Dist 47 IDELR 60 (SEA NY 12/7/6). SRO remanded the matter to the IEP team when HO improperly intervened in a question of methodology; and Bd of Educ of New York City 46 IDELR 299 (SEA NY 11/9/6) SRO remanded the issue of placement to the IEP team where HO had not developed a sufficient record. New York City Dept of Educ 106 LRP 65685 (SEA NY 10/30/6) SRO reversed HO who improperly found student eligible because eligibility committee lacked a regular ed teacher. Instead, the SRO remanded the matter back to the eligibility committee for a determination re eligibility; New York City Dept of Educ 48 IDELR 116 (SEA NY 5/30/7) (remand to IEPT); Fulton County Sch Dist 49 IDELR 30 (SEA Ga 7/11/7) (remand for a new manifestation determination); Hacienda La Puente Unified Sch Dist 48 IDELR 237 (SEA Calif 7/23/7); Fallbrook Union High Sch Dist 107 LRP 69374 (SEA Calif 11/20/7) (HO remanded matter to IEPT to determine correct placement).

17. Alfonso v. District of Columbia 45 IDELR 118 (D.DC 2/16/6) HO's decision reversed where he failed to consider **undisputed** evidence; LB & FB ex rel JB v NYC Dept of Educ 68 IDELR 195 (SDNY 9/27/16)@n.12 HO **improperly relied upon testimony** of witness concerning writing based goals even though witness **dramatically changed** testimony later on; LS by Julia V Bd of Educ, Lansing Sch Dist 65 IDELR 225 (ND Ill 6/11/15) HO erred by considering in his decision an **affidavit** from the SD that contradicted witness who testified at dph without giving parent an opportunity to provide evidence rebutting the affidavit.

18. Oakland Unified Sch Dist v NS by Genning & Sandahl 66 IDELR 221 (ND Calif 11/10/15) Court defers to HO credibility findings because HO is in a better position to assess; TO & KO ex rel JO v Summit City Bd of Educ 66 IDELR 16 (DNJ 7/27/15) Court rejected SD argument that HO decision should be reversed because **every time** she considered **contradictory evidence** about a preschooler's needs, she **sided with the parent**. Where there are two permissible views of evidence, HO's choice between them is not clearly erroneous and unless there is

non-testimonial evidence that would render the credibility determination unreasonable, court will defer; Genn ex rel Genn v New Haven Bd of Educ 69 IDELR 35 (D Conn 11/30/16) Court ruled that HO properly determined **credibility and weight** of evidence. Court was not present at dph and will not substitute its judgment; Swanson by Swanson-Houston v Yuba City Sch Dist 68 IDELR 215 (ED Calif 10/13/16) HO is in best position to observe live testimony and determine demeanor, tone of voice and assess **credibility**; DB ex rel LB v Ithaca City Sch Dist 68 IDELR 161 9/13/16) Court found that testimony of parent **expert** that student with SLD needed residential placement was outweighed by evaluative data showing that a public school placement could meet his needs with a resource room and counselling; DM & JM ex rel MM v Seattle Sch Dist 68 IDELR 165 (WD Wash 9/9/16) Court gave great deference to ho's **credibility** findings; Johnson ex rel NS v Boston Public Schs 68 IDELR 97 (D Mass 8/17/16) Court affirmed HO who discounted mom's **credibility** where she had memory issues and where she insisted that SD would only consider placement as part of a larger settlement where not supported. HO did not err in weighing her testimony; Maple Heights City Sch Dist Bd of Educ v Ac ex rel AW 68 IDELR 5 (ND Ohio 6/27/16) Court ruled that HO was in better position to assess witnesses and experts and determine their credibility; HO properly determined that parent experts gave a more thorough analysis and were better qualified; CB & TB ex rel HB v NYC Dept of Educ 68 IDELR 15 (EDNY 6/16/16)@n.6 HO's credibility findings are upheld normally because access to the live testimony is important for assessing credibility; Dobbins ex rel AD v Dist of Columbia 67 IDELR 34 (DDC 2/2/16) HO did not place burden of persuasion on wrong party, he merely found the parent's expert testimony to be unpersuasive and inconsistent with the evidence.

19. CL & GW ex rel CL v Scarsdale Union Free Sch Dist 744 F.3d 826, 63 IDELR 1 (2d Cir 3/11/14) Second Circuit does not give deference to SRO decision where not sufficiently **reasoned** or **carefully** considered; Hardison ex rel ANH v Bd of Educ of the Oneota City Sch Dist 773 F.3d 372, 64 IDELR 161 (2d Cir 12/3/14) IDEA HOs have greater institutional **competence** in matters of **educational policy** and therefore federal courts must give due weight to the administrative proceedings because the judiciary lacks the specialized knowledge and experience. In deciding what weight is due, the analysis will hinge upon

considerations that normally determine whether any particular judgment is persuasive such as the **quality and thoroughness of the reasoning**, the **type of** determination under review, and whether the decision is based upon **familiarity with the evidence and witnesses**; AA ex rel JA v NYC Dept of Educ 66 IDELR 73 (SDNY 8/24/15) **Well-reasoned** HO decision entitled to deference; CW & WW ex rel WW v City Sch Dist of City of NY 67 IDELR 186 (SDNY 3/22/16) Deference where decision was **well-reasoned**, and **supported** by the record.

20. CC, Jr v Beaumont Independent Sch Dist 65 IDELR 109 (ED Tex 3/23/15) Court ruled that an IDEA HO has no obligation or authority to hear **motions to reconsider** after the final decision is issued; In re: Student with a Disability 108 LRP 40156 (SEA NY 6/4/8) SRO reversed HO who lacked authority to reopen a case and issue a decision with the opposite conclusion (no FAPE.) (See Q&A document Question 25 above.)

21. DF by AC v. Collingswood Borough Bd of Educ 694 F.3d 488, 59 IDELR 211 (3d Cir 12/12/12) Court reversed HO and lower court criticizing their reliance on an **unpublished court decision**; Pennsbury Sch Dist 107 LRP 63404 (SEA PA 9/25/7) SRO Panel criticized HO decision for relying upon SpEd literature concerning best practices and upon **unpublished** decisions from other jurisdictions rather than published opinions decisions setting forth the law.

22. Letter to Anonymous 67 IDELR 188 (OSEP 3/3/16) OSEP explained that an SEA should **not redact** information from a dp **HO decision unless** it determines that releasing it would result in exposure of **personally identifiable information**. PII includes: 1) names of children/family; 2) child's address; 3) personal identifiers- like SSN and 4) personal characteristics or other information that would make it possible to identify child. In some cases, name of SD would be PII. Redaction must involve a case by case analysis and not a blanket policy. The **name of HO** should **not be redacted** unless it results in PII being released.

23. BR ex rel KO v New York City, Dept of Educ 113 LRP 118 (SDNY 12/26/12) at n.1 Court notes that the opinion is replete with **acronyms.** "One suspects that **regulators and bureaucrats love such jargon** because it makes even simple matters cognizable only to the cognoscenti and this enhances their power at the expense of people who only know English…"; TC & AC ex rel AC v NYC Dept of Educ 68 IDELR 67 IDELR 183 (SDNY 3/30/16)@n.2 Court apologizes for excessive use of acronyms; CW & WW ex rel WW v City Sch Dist of City of NY 67 IDELR 186 (SDNY 3/22/16) @n.1 (same); QWH by LW v NYC Dept of Educ 67 IDELR 121 @n.1 (SDNY 3/7/16)(same)

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