



The Decision
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introduction.

Overview

- Encompasses all that has happened prior to its issuance and all that should happen after it is issued
- Starting point for judicial review
- Guidance to LEA

Overview

- Care should be given to the preparation and presentation of the decision
- A case should be decided solely on the merits, and on the evidence presented on the record
- Attorney [mis]conduct, or annoyances brought out by the hearing process, should not influence the decision

hearing rights.

Hearing Rights

- Any party to a hearing has a right to obtain a written or, at the option of the parents, an electronic findings of fact and decisions
- Parents must be given the right to have the record of the hearing and the findings of fact and decisions provided at no cost

content of decision.

Content of Decision:
Be a Hemingway - not a Homer

- Writing is about communicating ideas
- We communicate better in our writing when -
 - ✓ we write concisely, directly and simply ...
 - ✓ with correct grammar and usage
- Keep in mind some basic rules

Content of Decision:
Be a Hemingway - not a Homer

- Understand the audience to whom the decision is addressed
 - ✓ The intended readers are not the lawyers
 - ✓ Write to the parents and school district personnel

Content of Decision:
Be a Hemingway - not a Homer

- Pretend that you are explaining something to a child
 - ✓ Limit use of legal terminology or complex terms
 - ✓ Balance the interest between clear, concise, and efficient communication with understandable terms and phrases

Content of Decision:
Be a Hemingway - not a Homer

- Write concisely
- Wordy sentences can make it more difficult to understand meaning
 - ✓ Write simpler sentences by eliminating unnecessary words or phrases
 - ✓ Eliminate repetition

Content of Decision:
Be a Hemingway - not a Homer

- Be candid, not outspoken
- Limit criticism, unless it is essential to the resolution
 - ✓ Credibility findings should be factual, cite to the record
 - ✓ Do not embellish to support a conclusion
 - ✓ Be respectful

Content of Decision:
Format

- IDEA does not prescribe the content and/or format of the decision
- There are key components that should be included in the decision

Content of Decision:
Introduction and Procedural History

- Identify the parties and their representatives;
- Summarize all PHCs, motions, and/or rulings;
- Summarize essential dates and information pertaining to the timeline; and
- Identify the witnesses called and the exhibits introduced during the hearing

Content of Decision:
Jurisdiction

- Listing of statutes, regulations and/or rules pursuant to which...
 - ✓ the due process hearing was held; and
 - ✓ a decision in the matter was rendered

Content of Decision:
Background

- Include a brief statement of what the matter is all about

Content of Decision:
Issue(s) and Relief Sought

- The issue(s) should be stated succinctly and in question format;
- Multiple issues should be presented in logical sequence; and
- The HO might consider stating each party's position relating to the issue(s)

Content of Decision:
Findings of Fact

- Set forth the facts determined to be relevant and relied upon, including credibility findings
- Resolve disputes about facts
- Set the facts in chronological order
- Cite to exhibits and the transcript
- Incorporate stipulated facts
- Include the basic facts necessary to apply the criteria to decide an issue

Content of Decision:
Conclusions of Law/Discussion

- Set out the applicable legal standard and apply the law to the facts
- Explain the basis for various matters like why one expert's opinion was accepted over another's
- Consideration should be given to whether issues rendered non-essential should nonetheless be decided
- ✓ Subsequent steps of the Burlington/Carter multi-step test

Content of Decision:
Conclusions of Law/Discussion.

- Use subheadings for each issue;
- Cite to relevant laws, regulations, and/or case law;
- Distinguish or apply case law offered by the parties;
- Tell a "story"

Content of Decision:
Decision/Order

- The HO must decide the disputed issue(s) and determine the remedy being ordered
- Use clear, specific, and mandatory language
- Must be enforceable
- Timelines should be imposed and discernable

Content of Decision:
Decision/Order

- Should not delegate authority
- The actions the parties are to take must be clear

Content of Decision:
List of Exhibits

- Each exhibit admitted into evidence must be identified by -
 - ✓ Date;
 - ✓ Number of pages; and
 - ✓ Exhibit number or letter

Content of Decision:
Items in the Record

- The decision must also identify all other items that were entered into the record

Content of Decision:
Notice of Appeal

- Include one
- The parties must be advised on how to appeal the decision to the State review officer

the end.
