

# ANALYSIS OF SELECTED DECISIONS

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## I. INTRODUCTION

Out of the hundreds of decisions that NY IHOs have rendered, from those available to us we selected some to present and discuss as a learning tool.

## II. POINTS TO CONSIDER

In looking at these decisions please keep in mind the good practice suggestions and tips in decision writing presented this morning, as well as the various legal pointers presented earlier this afternoon. More specifically, with regard to each decision:

### Generally:

- Is it “good writing,” i.e., understandable to the intended readers, concise and demonstrate judicial temperament?
- Does the format reflect good practice, i.e., are there segments relating to Introduction and Procedural History, Jurisdiction, Background, Issues and Relief Sought, Findings of Fact, Conclusions of Law/Discussion and Decision/Order?

### Intro/Background:

- Is the case introduced and the procedural history explained to the reader?
- Is the burden of persuasion allocated?
- Are the specific NY reg requirements met, i.e., is the record closed date indicated; are the admitted exhibits listed with the date, number of pages and exhibit number/letter for each; are any other items admitted identified?

### Issues:

- Are the issues stated clearly and concisely, in question format and presented in logical sequence?

### Findings of Fact:

- Are there findings of fact? Are the findings only those relevant, necessary and relied upon to apply the standards/criteria to decide the issues? Are they in chronological order? Were they determined according to the “snapshot” principle? Are they supported by references to the hearing record? Are credibility findings made with the basis noted?
- If the issue is the appropriateness of the educational placement, are there findings regarding the child’s needs, IEP tailored/reasonably calculated to meet needs/likely to produce progress/greater than trivial/environmental factor/LRE and not which placement is “better/best/most appropriate/in best interests”?
- If an issue is also whether district violated a procedural requirement, are there findings if it did, and if so, are there findings to serve as a basis to later make conclusions whether it significantly impeded the parent’s opportunity to participate in IEP process or if it resulted in any loss of educational benefit?
- If a denial of FAPE is found, regarding a tuition reimbursement remedy, are there any findings to serve as a basis to later make conclusions regarding equities (notice/evaluation), parent’s unilateral placement “appropriate” and final balancing of equities (with basis for granting/reducing/denying)?
- If a denial of FAPE is found, regarding a compensatory education remedy, are there any findings to serve as a basis to later make conclusions regarding the equities and the basis and calculus of the award?

Conclusions of Law:

- In the conclusions of law/discussion are the applicable legal standards for each disputed issue set forth? Are those standards then applied to the facts as found?
- If the issue is the appropriateness of the educational placement, are the standards regarding IDEA’s evaluation/IEP requirements, appropriateness of IEP (reasonably calculated/likely to produce progress/greater than trivial advancement/environmental/LRE) set forth and applied to the facts as found?
- If an issue is also whether the district violated a procedural requirement, is the standard regarding the requirement and substantive harm (impede parents/loss of educational benefit) set forth and applied to the facts as found?
- If denial of FAPE is found, are there standards set forth and applied to the facts as found for determining any remedies considered, e.g., tuition reimbursement (multi-prong test) or compensatory education (quantitative/qualitative approach)?
- Is case law offered by the parties distinguished or applied? Can the reader discern how the hearing officer reached conclusions, i.e., is there a story told/reasoned path?

Order:

- Is each identified issue determined? Is the order clear, specific and mandatory, i.e., enforceable? If appropriate are timelines imposed?
- Were the parties advised on how to appeal the decision to a SRO?