

NYS ISSUES CONSEQUENTIAL DECISION ON IDEA IMPARTIAL DUE PROCESS HEARINGS

Education Law Alert
November 28, 2011

On November 3, 2011, the New York State Office of State Review issued an important decision regarding impartial due process hearings under the Individuals with Disabilities Education Act (IDEA). In Appeal No. 11-091, the State Review Officer (SRO) held that impartial hearing officers (IHOs) must strictly adhere to the timelines articulated in Part 200 of the Regulations of the Commissioner of Education. Failure to strictly follow these timelines may be basis for the SRO to conclude that the IHO engaged in “misconduct,” and could result in removal of the IHO from the approved list of administrative judges.

This decision will have significant ramifications on how IHOs handle future due process claims. IHOs will be under increased pressure to conclude these matters within 45 days. They will be less willing to grant extensions of time for hearings, even when both parties are in agreement with the extension. This can yield both positive and negative results for school districts—it will force hearings to move along at an expedited pace, but will also limit the amount of time allowed for the parties to amicably resolve the dispute.

For a more detailed discussion of this SRO decision, attend a presentation on special education hearings at the 2012 Hodgson Russ School Client Conference on January 20.

Attorneys

Ryan Everhart
Andrew Freedman
Karl Kristoff
Jeffrey Swiatek

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