

Remedial Orders: A Summary of the Do's, the Don'ts, and the Maybe's

*Deusdedi Merced, Esq.
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Introduction

- What is a decision?
- What is one of the primary purposes of decision writing?
- What should be one of the outcomes of good decision writing?

The Do's

- HO's have the authority to grant any relief deemed necessary to remedy any denials of FAPE and to resolve the dispute.
- The relief can be prospective and retrospective.

The Do's

- Clear and specific
- Concise, though well reasoned
- Fitting the scope and severity of the violation(s) being remedied
- Creative, but within legal boundaries

The Do's

- Timely in addressing the present circumstances
- Workable and enforceable, with the use of mandatory language and discernible timelines when necessary
- Final

The Don'ts

- Ordering relief when there has not been a denial of FAPE or evidence that the LEA has not complied with §§ 300.500 - 300.536
 - ▶ With one notable exception
- Ordering relief that goes beyond the HO's subject matter jurisdiction
- Ordering relief beyond what is necessary to address the violation(s)

The Don'ts

- Ordering systemic relief
- Ordering relief based on an anticipatory violation
- Issuing an opinion regarding a non-issue and ordering relief
- Ordering Comp Ed without an explanation on how the HO derived at the award

The Don'ts

- Delegating to an IEP team (or others) the HO's functions
- Issuing a remedial order that is not final
- Awarding compensatory or punitive damages

The Maybe's

- Ordering a placement that neither party proposed
- Retaining consultants to work with a particular program or school
- Requiring specific training

The Maybe's

- Delegating to the IEP team concurrent responsibilities
- Delegating to consultants
- Enforcement of settlement agreements and prior decisions
