

**HOT TOPICS & RECENT CASE LAW DEVELOPMENTS
IN THE 2ND CIRCUIT**

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Second Circuit Decisions – M.H. v. NYCDOE and beyond

M.H. v. NYC DOE, 685 F.3d 217 (2nd Cir. 2012), panel: **Sack**, Livingston, Lynch

History:

M.H.	M.S.
IHO – Parents	IHO – SD
SRO – SD	SRO – SD
SDNY (J. Preska) – Parents	SDNY (MJ Francis) – SD
2 nd Cir – Parents	2 nd Cir - SD

These two cases were consolidated on appeal, and the 2nd Cir adopted Chief J. Preska’s decision in its entirety and should be read with this decision (“M.H. I” 712 F. Supp 2d 125 (S.D.N.Y 2010)).

Both cases involved students with autism and tuition reimbursement relief for a 1:1 ABA school (Brooklyn Autism Center).

The Court stated that:

- “determinations regarding the substantive adequacy of an IEP should be afforded more weight than determinations concerning whether the IEP was developed according to the proper procedures;
- Decisions involving a dispute over an appropriate educational methodology should be afforded more deference than determinations concerning whether there have been objective indications of progress;
- Determinations grounded in thorough and logical reasoning should be provided more deference
- And the district court should afford more deference when its review is based entirely on the same evidence as that before the SRO than when the district court has before it additional evidence that was not considered by the state agency
- Applying these principles, the Court held that it was proper for the district court to defer to the IHO in M.H.’s case because it was better reasoned than the SRO’s decision. It was proper to defer to the IHO’s findings on the appropriateness of ABA instruction because the IHO had considered all the evidence on methodology, and the SRO had not. In M.S.’s case, the district court properly deferred to the IHO and SRO.

R.E. v. NYCDOE, 694 F.3d 167 (2nd Cir. 2012), panel: Winter, Walker, Cabranes.

R.E.	R.K.	E. Z.-L.
IHO – Parents	IHO- Parents	IHO – Parents
SRO - SD	SRO - SD	SRO - SD
SDNY (J. Sweet) - Parents	EDNY (J. Matsumodo) - Parents	SDNY (J. Stein) - SD
2 nd Cir - SD	2 nd Cir - Parents	2 nd Cir - SD

These three cases were consolidated on appeal. All three cases involved students with autism and tuition reimbursement relief. R.E. was in the 1:1 ABA McCarton School, R.K. was in the 1:1 Brooklyn Autism Center, and E.Z.-L. was in the Rebecca School.

The Court analyzed the question of whether or not “retrospective evidence” is permissible so that a school district can attempt to prove what “would be” available to the student, despite what the IEP actually offers to the student. In each case the SRO relied in part on testimony from the DOE personnel about the educational program the student would have received if he or she had attended public school instead of attending the private school.

The district court in *R.E.* (J. Sweet) held that the sufficiency of the IEP must be determined from within its “four corners.” In *R.K.*, the district court (J. Matsumodo, adopting MJ Mann’s R&R) rejected the SRO’s reliance on testimony about services that were not in the IEP, but which Department witnesses claimed would have been provided. The IHO had awarded only partial tuition – the district court awarded full tuition. In *E.Z.-L.’s* case, the court held that the DOE had provided a FAPE and granted judgment in its favor.

The 2nd Cir declined to adopt a “rigid” four corners rule, but held that testimony concerning the services a school district would have offered a student may be used only to “explain or justify what is listed in the written IEP.” A deficient IEP may not be rehabilitated or amended after the fact through testimony regarding services that do not appear in the IEP or a modification that is materially different from the IEP. The Court declined to defer to the SRO, adopting the same principle as the M.H. Court, that where the decisions of the IHO and SRO conflict, and the SRO’s decision is insufficiently reasoned, the federal court may consider the decision of the IHO instead.

2006-2007 SY	2007-2008 SY
IHO - SD	IHO- SD
SRO -SD	SRO –SD
SDNY (J. Preska) – SD	SDNY – Parents
2 nd Cir – SD	2 nd Cir – Parents

The parents brought this case for two school years seeking tuition reimbursement for Maplebrook. The student had been in-district during the 05-06 SY, and the district proved, at every level, that student had been making progress, and that the 06-07 IEP provided FAPE. The 2nd Cir held that the 07-08 IEP was likely to cause B.S. to regress or make only trivial advancement because it was designed without regard for any of the progress B.S. did make at Maplebrook (the private school). The Court faulted the district for concluding that B.S. was not making meaningful progress at Maplebrook without ever having observed B.S. at Maplebrook, meeting with her, or otherwise attempting to evaluate B.S. during the 06-07 SY.

***Bryant v. New York State Educ. Dept.*, 692 F.3d 202 (2nd Cir 2012), panel **Jacobs**, Wesley, Sullivan**

The parents of seven children with disabilities enrolled in the Judge Rotenberg Center (JRC) sought an injunction to prevent the Board of Regents, the New York State Educ Dept and the Commissioner of the Educ Dept from enforcing the prohibition on the use of aversive interventions. The District Court granted the Dept’s motion to dismiss and denied the Parents’ request for preliminary injunction. The 2nd Cir affirmed and held that the regulation did not amount to a predetermination of students’ IEPs, because it is a substantive standard of the state agency, not an unofficial district policy applied to an individual student’s IEP.

G.B. v. Tuxedo Union Free School District, 486 Fed. Appx. 954 (Oct 18, 2012), panel: Chin, Lohier, Droney –
SUMMARY ORDER

IHO – SD
SRO – SD
SDNY(J. Karas) – Parents
2 nd Cir – Parents

This is a least restrictive environment case (“LRE”). The SD wanted to put a child with autism in a self-contained classroom with ABA – the parents removed their child to a private mainstream school and sought tuition reimbursement. The district court reversed the SRO, finding that the IEPs for the two school years were inadequate to provide a public education in the LRE and that the private schooling obtained by the Parents was appropriate to N.B.’s needs.

The G.B. court adopted the *Newington* two-prong analysis of LRE.

The 2nd Cir affirmed the S.D.N.Y. for “substantially the reasons stated by the district court in its thorough opinion, 751 F.Supp.2d 552 (S.D.N.Y. 2010).

D.D-S v. Southold Union Free School District, 506 Fed. Appx. 80 (Dec 26, 2012), panel: Katzmann, Parker, Wesley –
SUMMARY ORDER

IHO – SD
SRO – SD
SDNY (J. Seybert) – SD
2 nd Cir – SD

The SD conceded that it failed to provide the student with a FAPE but the Court found that the parents failed to prove that the Landmark School, “by a totality of the circumstances,” was an appropriate school for the student. While

evidence of academic progress was offered, there was no evidence that this “extremely” restrictive residential immersion was appropriate for B.’s educational needs.

M.B. v. Miniskink Valley Central School District, 523 Fed. Appx 76 (Mar 29, 2013), panel: McLaughlin, Pooler, Sack – SUMMARY ORDER

IHO – Parents
SRO – SD
SDNY (J. Gwin) – SD
2 nd Cir – SD

The parents sought tuition reimbursement for the Family Foundation School (“FFS”). The sole issue before the Court was the appropriateness of FFS for the student. The Court found that the SRO’s decision was based on determinations that are “exactly the types of decisions involving a dispute over an appropriate educational methodology that we have held should be afforded more deference by reviewing courts.” The SRO found FFS was inappropriate because:

- FFS failed to develop an IEP
- It failed to provide specific support to address L.C.’s difficulties with organizational skills, executive functioning, and fine motor skills;
- Its behavioral program, which involved sanctions and time-outs was inappropriate; and
- Plaintiffs failed to provide sufficient evidence to determine whether the counseling sessions were appropriate to meet the student’s needs

The district court had additional evidence that the student was making progress at FFS, but the Court held that “such progress does not itself demonstrate that a private placement was appropriate.” Citing to *Gagliardo*.

IHO – Parents
SRO – SD
EDNY (J. Johnson) – Parents
2 nd Cir – Parents

The parents of a child with autism sought tuition reimbursement for a 1:1 ABA private school, Manhattan Childrens Center. The district court found that the IEP was inadequate because (1) it failed to provide adequate speech therapy and parent training, and (2) its termination of ABA therapy, which neither the IHO nor the SRO had addressed expressly. The district court found that “the evidence demonstrates that S.K. required substantial related services and greater individualized attention in order to make meaningful progress and receive an educational benefit from her schooling.”

The 2nd Cir notes that since the district court decision there has been an “intervening change in law,” citing *R.E.* and *M.H.*, “the persuasiveness of a particular administrative finding, or the lack thereof, is likely to tell the tale.” “Courts must defer to the reasoned conclusions of the SRO as the final state administrative determination. But in cases where the SRO’s determinations are insufficiently reasoned to merit that deference ... it is entirely appropriate for the court ... to consider the IHO’s analysis, which is ... informed by greater educational expertise than that of judges.”

In *R.E.*, the Court addressed the appropriateness of considering “retrospective testimony” in evaluating whether an IEP provides a FAPE. Retrospective testimony is “testimony that certain services not listed in the IEP would actually have been provided to the child if he or she had attended the school district’s proposed placement. We adopted the majority view that the IEP must be evaluated *prospectively* as of the time of its drafting and therefore ... retrospective testimony that the school district would have provided additional services beyond those listed in the IEP may not be considered in a B/C proceeding. This view rests on the recognition that parents must have sufficient information about the IEP to make an informed decision as to its adequacy prior to making a placement decision. While testimony that materially alters the written plain is not permitted, testimony may e received that explains or justifies the services listed in the IEP.

It its analysis, the Court faults the SRO for not pointing to any evidence in the record to support his position that S.K. could continue to make progress without at least some 1:1 speech and language therapy and to the contrary, the record contains evidence that that is precisely what S.K. needed (relying on the McCarton center evaluations).

Much of the evidence relied on by the SRO was “retrospective” – for example the teacher in the proposed class testified that S.K. would have provided S.K. with frequent language instruction. While that may be true, “it has no bearing on the evaluation of S.K.’s IEP and the Court cannot justify the CSE’s IEP based on evidence about the language services S.K. would actually receive in her public school placement. Parents are entitled to rely on the IEP for a description of the services that will be provided to their child.

IHO – Parents
SRO – SD
SDNY (K. Forrest) – SD
2 nd Cir – SD

The student has a severe form of autism which included numerous behaviors including “shredding” behavior where the child would eat her clothes off her body. Parents sought tuition reimbursement for 2 months of summer at the Rebecca School, 10 month SY at the 1:1 ABA Manhattan Children’s Center, and home services. The SRO found that the DOE’s proposed 6:1:1 program with a 1:1 paraprofessional provided FAPE. The District Court deferred to the SRO and agreed that the 1:1 “crisis” para would adequately monitor and help improve K.L.’s behavior

The 2nd Cir found the SRO decision “well reasoned and deserves deference as the final state administrative determination,” citing *R.E.* and found that the parents “offered no argument or evidence suggesting that a crisis management para would be inadequate to prevent K.L. from shredding. **(Is this not a shift in the BOP when in NY, the SD has the burden to prove that its program is appropriate, and in this case, the SD offered no evidence to show that a “crisis para” would be adequate. Rather the Court seems to shift that BOP to the parents to prove that the crisis para would be inadequate – this is troubling to the Parents’ bar).**

While the Court found that “the parents correctly point out that the SRO occasionally cited retrospective evidence in its opinion, the Court clarifies that, “the question before us, however, is not whether the SRO relied on impermissible retrospective evidence, but whether **sufficient** *permissible* evidence, relied on by the SRO, supports the SRO’s conclusion that eh IEP offered K.L. a reasonable prospect of educational benefits. Restrictions on the use of retrospective evidence are rooted in the principle that parents must be able to decide rationally whether to accept a proffered public school placement or to send their child, at the risk of non-reimbursement, to private school. In most cases, parents make this difficult decision on the basis of the IEP . . . at this moment of parental decision-making, the IEP must offer the student a FAPE on its own terms. Similarly, the SRO must assess the IEP from this *ex ante* perspective.

The Court found that the SRO explained that the para would be overseen by a licensed special ed teacher and would implement the behavior plan and there was no evidence that K.L. needed 1:1 teaching as opposed to 1:1 support, nor did parents prove that K.L. required a particular teaching method (unlike in *R.E.*). The SRO correctly found that K.L.'s IEP met the "basic standard" that it was likely to promote progress, not regression.

Failure to do an FBA and provide for parent counseling and training in the IEP did not rise to a FAPE deprivation.

The Court found that lack of Parent counseling and training in the IEP does not implicate "the reliance interests that caused us to bar retrospective evidence. Parents can file a complaint at any time if they feel they are not receiving this service.

Regarding placement, the Court agreed with the District Court that the placement was not inadequate or unsafe. "The appropriate inquiry is into the nature of the program actually offered in the written plan, not a retrospective assessment of how that plan would have been executed."

IHO – Parents
SRO – SD
EDNY (J. Weinstein) – SD
2 nd Cir – SD

Parents brought this case as an LRE case seeking tuition reimbursement for a private school and private services for their son with autism. The SD recommended an integrated co-teaching classroom, and the parents placed child in a Montessori school designed for typically developing students, with supplemental support services.

The Court notes that the IHO made no specific LRE findings, and when it comes to deference to the SRO, “where the SRO has clearly demonstrated a better command of the record and supported her conclusions through better legal and factual analysis than an IHO, we will have little difficulty deferring to the SRO’s opinion.” “Reviewing courts must look to the factors that normally determine whether any particular judgment is persuasive, for example, whether the decision being reviewed is well-reasoned and whether it was based on substantially greater familiarity with the evidence and the witnesses than the reviewing court.” Here, the Court found that the SRO decision was far more thorough than the IHO decision.

The Court remains steadfast that a SD’s failure to conduct an FBA does not make the IEP legally inadequate, so long as the IEP adequately identifies a student’s behavioral impediments and implements strategies to address that behavior. Where the IEP actually includes a BIP, parents should at least suggest how that lack of an FBA resulted in the BIP’s inadequacy or prevented meaningful decision-making. (The Court offers examples – good to read them!)

Failure to provide parent counseling and training, once again, “does not result in a FAPE denial or warrant tuition reimbursement.”

Regarding LRE, the Court applied the *Newington* analysis and declined to analyze M.W.’s ICT classroom placement as a placement in a special-education classroom, and instead analyzed whether the ICT services were appropriate supports for M.W. within a general education environment. “We do not assume that moving M.W. from an educational setting where he experienced some progress into a more restrictive setting, *ipso facto*, warrants tuition reimbursement for a private placement ... We reject the unsupported assertion that the restrictiveness of the educational environment and related services turns exclusively on the number of IEP students present.” DOE was not required to place M.W. in a regular classroom where he was the only IEP student.”

Further, M.W. requiring a 12 month program was no supported by the record.

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
10/25/2013	E.D.N.Y.	Kuntz	R.G. v. NYC Dep't of Educ.	Payment for student's services at unilateral placement	Ordered Defendant to convene a legally sufficient committee to develop a new IEP and placement for the student and continue funding student's current educational program until that process is complete	Held for Defendant school district entirely	Found for Plaintiffs on Prong I (DOE failed to offer a FAPE), but against Plaintiffs on Prong II (did not meet burden to show that unilateral placement was appropriate)	
10/8/2013	D. Conn.	Haight	A v. Hartford Board of Educ.	Attorneys' fees; Defendant's motions for dismissal due to lack of subject matter jurisdiction and dismiss/dismiss ; plaintiffs' motion to	Motions granted in part and denied in part	N/A	N/A	TSW note: good for SRO lateness issue
10/3/2013	S.D.N.Y.	Seibel	East Ramapo Central School District v. James P. DeLorenzo	N/A	Granted defendant's motion to dismiss due to lack of subject matter jurisdiction	N/A	N/A	
9/27/2013	S.D.N.Y.	Nathan	R.B. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
9/26/2013	W.D.N.Y.	McCarthy	Ganje v. Depew Union Free School District	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
9/24/2013	S.D.N.Y.	Pauley	Y.S. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Remanded to SRO	Held for Defendant school district	Held for plaintiff parents	
9/23/2013	S.D.N.Y.	Crotty	A.R. v. NYC Dep't of Educ.	Direct payment of student's private school tuition	Plaintiff's placement appropriate; equitable considerations support DOE payment of tuition; Plaintiff's summary judgment motion granted; Defendant's cross motion denied	Plaintiff's placement appropriate; relief equitable considerations	Plaintiff's placement inappropriate; relief unsupported by equitable considerations	
9/16/2013	S.D.N.Y.	Koeltl	T.G. v. NYC Dep't of Educ.	Direct payment of student's private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
9/5/2013	S.D.N.Y.	Cote	K.L. v. Warwick Valley Central School District	Summary judgment seeking attorneys' fees in the amount of \$27,614	Plaintiff's motion granted in part; awarded \$3,394	N/A	N/A	
8/19/2013	E.D.N.Y.	Brodie	E.F. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
8/14/2013	S.D.N.Y.	Pauley	M.R. v. NYC Board of Educ.	Payment for tuition at unilateral placement	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
8/9/2013	E.D.N.Y.	Brown	C.M. v. Syosset Central School District	Attorneys' fees at issue	Request for approval of an infant compromise denied	N/A	N/A	
8/5/2013	S.D.N.Y.	Seibel	J.C.S. v. Blind Brook Rye Union Free School District	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
8/1/2013	S.D.N.Y.	Scheindlin	M.G. v. NYC Dep't of Educ.	Seek preliminary injunction to maintain student's current placement and to add services to that placement	Court lacks jurisdiction re: new services because Plaintiffs did not exhaust administrative remedies, but as to existing services, Plaintiffs entitled to an injunction enjoining Defendants from defunding those services until otherwise stated in an uncontested IEP or unappealable court order	N/A	N/A	
7/30/2013	S.D.N.Y.	Ramos	Pape v. Board of Educ. of the Wappingers Central School District	1983 claim at DCt (IDEA at admin); Defendants brought motion for summary judgment	Granted defendant's motion for summary judgment	Reversed IHO, holding that IHO lacked authority to enforce former order from a different IHO	Held for plaintiff parents	
7/22/2013	S.D.N.Y.	Nathan	P.G. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held in part for both parties and remanded back to SRO for further consideration	Held for Defendant school district	Held for plaintiff parents	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
6/12/2013	S.D.N.Y.	Ramos	M.W. v. Board of Educ. of the Enlarged City School District of Middletown	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
6/4/2013	S.D.N.Y.	Peck	M.C. v. NYC Dep't of Educ.	Attorneys' fees in the amount of \$63,810	Awarded \$43,993 to Plaintiffs	N/A	N/A	
6/4/2013	S.D.N.Y.	Gardephe	M.F. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for plaintiff parents	Held for Defendant school district	Held for plaintiff parents	
5/7/2013	S.D.N.Y.	Cott	M.L. v. NYC Dep't of Educ.	Additional evidence	Granted	N/A	N/A	
4/29/2013	N.D.N.Y.	Kahn	M.C. v. Lake George Central School District	Attorneys' fees	Awarded \$30,798.34	N/A	N/A	
4/15/2013	W.D.N.Y.	Foschio	B.J.S. v. State Educ. Dep't/The University of the State of NY	Seeks annulment of SRO decision, which overturned IHO decision that was favorable to	Granted defendant school district's motion for summary judgment	Held for Defendant school district	Held for plaintiff parents	
4/11/2013	S.D.N.Y.	Sullivan	R.B. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Case dismissed because Plaintiff did not bring within the two year statute of limitations	N/A	N/A	
3/30/2013	N.D.N.Y.	Kahn	S.M. v. Taconic Hills Central School District	Attorneys' fees	Awarded \$85,318.78 in attorneys' fees and related costs to plaintiffs	Granted relief to parents	Found for parents re: failure to offer a FAPE, but did not grant them requested relief	
3/29/2013	S.D.N.Y.	Ramos	G.W. v. Rye City School District	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Awarded reimbursement for years of tuition that were not found to be time barred, but reduced the award significantly due to equitable failures of the parents	
3/28/2013	S.D.N.Y.	Seibel	C.H. v. Goshen Central School District	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for Plaintiff parents	
3/21/2013	S.D.N.Y.	Forrest	M.Z. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for Plaintiff parents	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
3/21/2013	E.D.N.Y.	Seybert	Jenn-Ching Luo v. Bladwin Union Free School District	Placement in private program and direct payment thereof	Dismissed certain defendants from the action and clarified outstanding claims for administrative review	N/A	Held for Defendant school district	
3/19/2013	S.D.N.Y.	Abrams	A.D. v. NYC Dep't of Educ. E.C. v. Board of Educ. of the City School District of New Rochelle	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for Defendant school district	
3/15/2013	S.D.N.Y.	Ramos		Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for Plaintiff parents	
3/14/2013	D. Conn.	Thompson	Mr. and Mrs. P. v. Greenwich Board of Educ.	Reimbursement for private school tuition	Court lacks subject matter jurisdiction because plaintiffs did not exhaust administrative remedies	N/A	Held for Defendant school district	
2/28/2013	N.D.N.Y.	Kahn	S.M. v. Taconic Hills Central School District	Compensatory services	Held for Defendant school district	Held for Defendant school district	Found no offer of a FAPE, but did not grant compensatory services	
2/14/2013	S.D.N.Y.	Engelmayer	F.B. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district and remanded to SRO for consideration of other IEP elements that were not discussed in SRO decision	Held for Defendant school district	Found for plaintiff parents	
1/3/2013	S.D.N.Y.	Rakoff	C.L. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for plaintiff parents	Held for Defendant school district	Held for plaintiff parents	
1/2/2013	S.D.N.Y.	Ramos	Dirocco v. Board of Educ. of Beacon City School District	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
12/26/2012	S.D.N.Y.	Rakoff	B.R. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for plaintiff parents	Held for Defendant school district	Held for plaintiff parents	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
12/4/2012	S.D.N.Y.	Cote	NYC Dep't of Educ. v. S.A.	Reimbursement for private school tuition	Held for Defendant school district - remand back to the SRO (exception to mootness doctrine in this case)	Dismissed DOE appeal as moot based on the fact that the DOE had fully reimbursed defendants	Held for plaintiff parents	
11/27/2012	S.D.N.Y.	Forrest	J.F. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Remands back to IHO for further findings	Held for Defendant school district	Held for plaintiff parents	
11/26/2012	S.D.N.Y.	Ramos	E.T. v. Board of Educ. of Pine Bush Central School District	Tuition reimbursement for private unilateral placement; motion for summary judgment	Plaintiffs' motion and Defendant's cross motion denied w/o prejudice; case ordered to be stayed and remanded back to the SRO for further findings	Affirmed IHO	District had no obligation to provide student with a FAPE because parents had made clear their intention to enroll privately before district had offered a program of its own	
10/16/2012	S.D.N.Y.	Eaton	F.L. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district - denied payment for both tuition and related services	Held for Defendant school district re: tuition reimbursement, but ordered district to pay for related services	
9/29/2012	S.D.N.Y.	Preska	E.A.M. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district entirely	Held for Plaintiff parents; school district did not offer a FAPE; Plaintiff's placement appropriate	
9/24/2012	N.D.N.Y.	Sharpe	C.G. v. Ithaca City School District	Attorneys' fees and costs	Awarded \$17,211.16 in attorneys' fees and related costs (reduced from initial request)	Upheld portions of the IHO decision, but annulled part of that decision which ordered the district to pay for private evaluations	Found that school district did not timely evaluate the student or allow for meaningful participation by the parent in the IEP process	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
9/21/2012	D. Conn.	Arterton	John Doe v. East Lyme Board of Educ.	Reimbursement for private school tuition	Held for Defendant school district	MAG JUDGE held in part for plaintiff, in part for defendant - unilateral placement was not appropriate, but parents were entitled to pendency funding	Found for parents re: failure to offer a FAPE, but did not grant them requested relief	
9/18/2012	W.D.N.Y.	Larimer	T.W. v. Spencerport Central School District	Reimbursement for private school tuition; claim re: failure to exhaust administrative remedies	Defendant's motion to dismiss is granted	N/A	N/A	
9/18/2012	N.D.N.Y.	Hurd	T.M. v. Kingston City School District	Reimbursement for private school tuition	Held in favor of Defendant school district	Held for defendant school district; Found that school district's obligation to offer a FAPE ended when student had earned a Regent's diploma	Held for plaintiff parents	
9/10/2013	N.D.N.Y.	Kahn	S.M. v. Taconic Hills Central School District	Attorneys' fees and costs in the amount of \$146,148.48	Awarded \$50,736.08 in attorneys' fees and related costs	N/A	N/A	
9/10/2013	S.D.N.Y.	Batts	F.O. v. NYC Dep't of Educ.	Health paraprofessional for student	Held for Defendant school district; dismissed for lack of subject matter jurisdiction	Held for Defendant school district	Held for parents - awarded health paraprofessional during pendency of proceedings	
9/6/2012	N.D.N.Y.	Kahn	M.C. v. Lake George Central School District	Reimbursement for private school tuition	Held in part for Defendants; dismissed plaintiffs' claims in their entirety	N/A	N/A	
8/23/2012	S.D.N.Y.	Forrest	K.L. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
8/14/2012	D. Conn.	Margolis	John Doe v. East Lyme Board of Educ.	Reimbursement for private school tuition and related services	Held in part for both parties (FAPE/no FAPE for various time periods at issue in the proceeding)	N/A	Found that Defendant's had offered student a FAPE	

Date	Court	Judge	Parties	Relief Sought	District Court	SRO	IHO	Holding
8/8/2012	S.D.N.Y.	Batts	K.S. v. NYC Dep't of Educ.	Reimbursement for private school tuition	Held for Defendant school district	Held for Defendant school district	Held for plaintiff parents	
8/7/2012	S.D.N.Y.	Briccetti	T.M. v. Cornwall Central School District	Pendency funding	Held for plaintiff parents	Held for plaintiff parents	Held for plaintiff parents	
8/6/2012	D. Conn.	Kravitz	J.F. v. Brian Shirvell, et al.	Reversal of hearing officer's determination that the Board of Education provided the	Award judgment to Defendants; defers to hearing officer's determination	N/A	Found that Defendant's had offered student a FAPE	
7/26/2012	D. Conn.	Hall	Bonaguide v. Regional School District No. 6	Claims re: wrongful termination in contravention of IDEA	Dismissed due to lack of subject matter jurisdiction	N/A	N/A	
7/24/2012	S.D.N.Y.	Seibel	M.C. v. Arlington Central School District	Defendants' motion to dismiss plaintiffs' federal claims	Motion granted	N/A	N/A	