



### **HOD Redaction Policy**

The Office of the State Superintendent of Education (“OSSE”), through its Office of Dispute Resolution, manages the District of Columbia’s due process hearing system, as required by the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. §§1415(f) and 1439(a)(1). Upon conclusion of a due process hearing, OSSE’s Impartial Hearing Officers issue final written decisions, which must comply with the IDEA and its implementing regulations at 34 C.F.R. §§300.512, 300.513, 303.444, and 303.445, applicable provisions of the District of Columbia Municipal Regulations, standard legal practice, and any other format requirements set by the Office of Dispute Resolution (“ODR”).

After deleting personally identifiable information, a final written decision (also referred to as a Hearing Officer Determination or “HOD”), must be made available to the public, pursuant to 34 C.F.R. §§ 300.513(c) and 303.445(d). This policy establishes OSSE’s procedures for deleting personally identifiable information and ensuring public access to the redacted HODs in a timely manner.

### **Legal Requirements for Protecting Personal Information**

As a practice, the OSSE ODR adheres to the requirements of the IDEA and the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. §1232g (see below) when redacting information from HODs. OSSE Hearing Officers shall be responsible for redacting the information that is classified by IDEA and FERPA as “personally identifiable,” as set out below.

The IDEA regulations at 34 C.F.R. §300.32 define “personally identifiable” as information that contains:

- (a) The name of the child, the child’s parent, or other family member;
- (b) The address of the child;
- (c) A personal identifier, such as the child’s social security number or student number; or,
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

Similarly, FERPA regulations prohibit the release of personal information in any form that would make the student’s identity easily traceable. FERPA regulations at 34 C.F.R. §99.3

define, “personally identifiable information” as including but not limited to:

- (a) The student’s name;



- (b) The name of the student’s parent or other family members;
- (c) The address of the student or student’s family;
- (d) A personal identifier, such as the student’s social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name; or,
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

**Redaction Process and Quality Assurance Review**

Following these guidelines, the Hearing Officers shall redact all personally identifiable information, as defined by IDEA and FERPA regulations, by replacing the “personally identifiable” references and terms above with regular nouns that identify the subject matter, such as: “Student,” “Age”, “Parent,” “LEA,” “School,” “Therapist”, “Teacher A”, “Grandmother”, “School Principal”, “Geographic Location A”, etc. The Hearing Officer shall then create an Appendix at the end of the HOD that lists all of the personally identifiable information in a chart form. Developing a practice of replacing personally identifiable information with generic regular nouns in the HOD as it is written ensures efficiency in the entire SHO redaction process.

After a Hearing Officer writes an HOD using general regular nouns in place of personally identifiable information as described above, the Hearing Office shall review the HOD to determine if any additional redaction is necessary. This review should give special consideration to whether or not there is any reasonably traceable information, including the names of other individuals associated with the child’s case, the names of cities, states, and/or foreign countries that would be traceable to a specific child, and any other special circumstances or conditions that uniquely identify the child’s case.

There may be circumstances when a student’s identity remains “easily traceable” even after the removal or redaction of direct identifiers and other nominally identifying information. This may be the case, for example, with a highly publicized disciplinary action, or a matter that involves a well-known student, where the student could be easily identified in the community based on the factual



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circumstances of the case, even after the record has been “scrubbed” of identifying data. In these circumstances, FERPA does not allow release of the record in any form without consent. The Hearing Officer shall make a preliminary determination on whether a particular case involves a child or family whose identity would be easily traceable because of the high profile or atypical nature of the case, or because the cluster of information regarding the child’s disability, age, school, etc., might make it possible to identify the child with reasonable certainty. In the event that the Hearing Officer *believes* that an HOD fits into this category, he/she shall consult with the Director of the Office of Dispute Resolution, who shall determine whether the HOD should not be posted for release to the public.

Once a redacted HOD with the corresponding Appendix has been filed by the Hearing Officer in the ODR’s docketing system, ODR staff will be required to review the HOD as a level of quality assurance to ensure that there is no personally identifiable information present. The ODR staff member will be responsible for **deleting** the Appendix and any transmittal email or fax cover sheets submitted with the HOD by the Hearing Officer. In the event that personally identifiable information is found in the HOD, the ODR staff member must redact that information using the Adobe redaction process and report any additional redactions to the Director of the Office of Dispute Resolution. The ODR staff member must separately file or mark the original HOD as filed by the Hearing Officer

Once the redaction has been completed, the Director of the Office of Dispute Resolution or his/her designee will review the redacted Hearing Officer Determination to *ensure* that all personally identifiable information has been redacted, and that the Appendix and transmittal document(s) have been removed. After this has been completed, the Director will provide final authorization for uploading the documents to the OSSE website.

### **Posting HODs on the OSSE Website**

On a monthly basis, all Hearing Officer Determinations that have been redacted and reviewed the previous month will be uploaded and published to the OSSE website.