



David A. Paterson
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NEW YORK 12243-0001

David A. Hansell
Commissioner

June 30, 2008

Eugene Doyle
P.O.O.R.
102-12 164th Avenue
Hamilton Beach, New York 11414-4010

Re: Public Access to Fair Hearing Decisions

Dear Mr. Doyle:

This is in response to your June 9, 2008 letter to General Counsel, John Bailly, regarding the manner in which this Office maintains its fair hearing decisions. Specifically, you expressed concern that “redacted copies of the decisions are not ‘accessible to the public’ in that they are not ‘available for public inspection and copying.’”

You referenced 7 CFR 273.15(g)(5), 42 CFR 431.244(g), 45 CFR 205.10(a)(19) and SAPA Section 307(3)(a), in support of your position that fair hearing decisions must be made available for public inspection either in paper or electronic form and that this Office is not doing so. We respectfully disagree with your assessment.

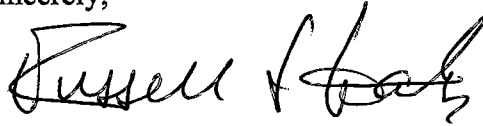
As you are aware, this Office indexes its fair hearing decisions by issue code. However, we are not limited to searching simply by issue code. We are able to filter through hundreds of thousands of decisions, limiting the search with variables such as agency involved, time-frame and hearing outcome, among many other possible data elements, in order to help identify the particular hearing decisions sought by a requestor. Once the search is completed and the decisions requested are identified, we insure proper redaction in order to protect confidentiality and then make the fair hearing decisions available to the requestor for “inspection and copying.” We can provide the decisions to the requestor in either paper or electronic format.

It is our opinion that the manner in which we maintain fair hearing decisions satisfies the requirements of the authorities you cited.

Nevertheless, given the advances in technology, we are in the early stages of exploring the possibility of posting our fair hearing decisions on the OTDA web site. As you might imagine, considering the more than 120,000 decisions issued annually by OTDA, this would be a significant undertaking, dwarfing the web sites noted in your letter that post less than 300 decisions annually.

I trust this adequately addresses your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell J. Hanks". The signature is fluid and cursive, with a large initial "R" and "H".

Russell J. Hanks
Deputy General Counsel
Office of Administrative Hearings