**24:05:30:10.01.  Decision of hearing officer.** Subject to the provisions of this section, a hearing officer's determination of whether a child received FAPE shall be based on substantive grounds.

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a FAPE only if the procedural inadequacies:

(1)  Impeded the child's right to a FAPE;

(2)  Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent's child; or

(3)  Caused a deprivation of educational benefit.

Nothing in this section precludes a hearing officer from ordering a district to comply with procedural requirements under this chapter, chapter 24:05:26, and chapter 24:05:26.01.

**Source:** 33 SDR 236, effective July 5, 2007.

**General Authority:** SDCL 13-37-1.1.

**Law Implemented:** SDCL 13-37-1.1.