

STATE BOARD OF EDUCATION
STATE OF GEORGIA

In re: J. A. : CASE NO. 1978-23
Appellant. :


O R D E R

THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision herein appealed from, be, and it is hereby, affirmed.

This 13th day of July, 1978.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION
STATE OF GEORGIA

IN RE: J.A. : REPORT OF
Case No. 1978-23 : HEARING OFFICER

PART I

SUMMARY OF APPEAL

On May 17, 1978, a hearing was held by a local hearing review board to consider the initial placement decision for J. A. (hereinafter "the Student"). The local hearing review board decided that the learning disabilities and behavioral disorders programs proposed by the school system were appropriate and could be provided by the school system. The student's mother has appealed the decision to the State Board of Education on the basis that the evidence shows that the Student should be placed in a residential setting.

PART II

FINDINGS OF FACT

On April 20, 1978, a special education placement committee, which included the Student's mother, met to make

initial evaluations of the Student's needs. The committee decided that the Student should be placed in a self-contained specific learning disability setting with behavioral disorder resource and recreational therapy for sensory integration. The Student's mother disagreed with this decision because she believed the Student should be placed in a residential program which provides twenty four hour care.

Appellant's mother requested a hearing to reconsider the initial placement decision of the special education placement committee. The Student's mother was provided access to all of the Student's records at no cost, was informed of her right to be attended by legal counsel and expert witnesses, and also informed that the hearing would be closed unless she requested otherwise. There were no objections made at the hearing or in the appeal concerning any of the procedures. Additionally, there was no objection made to the composition of the local hearing review board.

During the hearing, which was held May 17, 1978, the Student's mother was represented by legal counsel. Expert witnesses gave testimony for both the Student and the school system. Those witnesses who testified on behalf of the Student generally agreed that the Student required twenty four hour attention because of the Student's emotional problems. The witnesses on behalf of the school system

testified that the school system could meet the Student's educational needs during the regular hours that the school was in session.

The local hearing review board issued its decision on June 8, 1978. The board found that the Student was severely handicapped, "either emotionally or academically," and that a specific learning disabilities and behavioral disorder program and supportive services was indicated and that a residential program was not needed. The board also found that the school system could provide the required educational services. The Student's mother appealed this decision to the State Board of Education on June 13, 1978 and the record was forwarded to the State Department of Education on June 28, 1978.

PART III

CONCLUSIONS OF LAW

The entire hearing record, the decision of the local hearing review board, and the post-hearing memorandum of counsel for the Student have been reviewed. The procedures for conducting the hearing were consistent with the requirements of due process set forth in the federal regulations (42 Federal Register 42495, Aug. 23, 1977) and the Georgia Special Education Rules and Regulations. There does not

appear to be any need to receive any additional evidence and the Hearing Officer did not deem it necessary to receive oral or written arguments from the parties.

The State Board of Education follows the rule that if there is any evidence to support the decision of the trier of fact, then that decision will not be disturbed on review. See, Antone v. Greene County Board of Education, Case No. 1976-11. In the present appeal, there was evidence presented that the Student needs a specific learning disabilities and behavioral disorder program. The decision of the local hearing review board is based upon the evidence and is not arbitrary and capricious.

PART IV

RECOMMENDATION

Based upon the above findings and conclusions, the report of the local hearing review board, and a review of the record of the hearing, the Hearing Officer recommends that the placement of J. A. in a specific learning disabilities and behavioral disorder program be affirmed.



L. O. BUCKLAND
Hearing Officer