

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: W. S. H. :
Appellant : CASE NO. 1979-7

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 a 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 of the DeKalb County Board of Education herein appealed from is hereby affirmed.

Mrs. Oberdorfer dissented.

Mr. Lathem and Mrs. Huseman were not present.

This 14th day of June, 1979.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

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Case No. 1979-7

REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal from a special education decision made by the DeKalb County Board of Education (hereinafter "Local Board") to affirm the determination of a hearing examiner that the Local Board was not required to provide more than 180 days of placement. The parents of the student (hereinafter "Student") have appealed on the ground that the Local Board misapplied and misinterpreted the applicable law. The Hearing Officer recommends that the decision of the Local Board be upheld.

Part II

FINDINGS OF FACT

On March 29, 1979, a hearing was held before a hearing officer on the question of payment for the placement of the

Student. The school system and the parents submitted a written stipulation of facts and witnesses were not heard by the hearing officer. The hearing was limited to the question of payment of residential placement costs. No evidence other than the stipulation was introduced.

The hearing officer issued his report on April 5, 1979. He found that no evidence existed regarding whether the Student required more than 180 days of residential placement. Based upon the stipulation, the hearing officer concluded that the school system was required to only pay for 180 days of placement.

The stipulation of facts stated that the Student was seventeen years old and was enrolled in a residential program. The school system stipulated that the Student may be severely emotionally disturbed and that he may have a specific learning disability. The parents contended that the Student was, in fact, severely emotionally disturbed and did have a specific learning disability.

An enrollment contract, dated December 7, 1978, was approved by the school system to provide for residential placement of the student for 180 days. The school system, therefore, did not contest the placement of the student in a residential program for a period of 180 days during the 1978-1979 school year. The parents contended that there was no

appropriate placement within the local school system. Both parties agreed that the placement of the Student in the particular residential program for at least 180 days was appropriate.

The parents contended that the school system was required to pay for all of the Students residential placement costs for 365 days of the year. The school system, however, contended that its obligation to pay for residential placement for the Student was limited to the equivalent of a 180-day school year.

Both parties waived the right to a formal hearing before the hearing officer and agreed to submit the matter for determination on the basis of the stipulation and the record submitted. They also agreed that the only issue before the hearing officer was whether the school system was correct in limiting its obligation to pay for residential placement to the equivalent of a 180-day school year.

Part III

CONCLUSIONS OF LAW

The evidence in the instant case shows that the Student was placed into a residential program for the equivalent of a 180-day school year. There was not any evidence presented to show that a determination had been made whether the Student

required more than 180-days of placement. However, the decision of the State Board of Education in In re JEBG, Case No. 1979-5, negates any need of such evidence. In Case No. 1979-5, the State Board of Education decided that a local school system is not required to provide more than 180 days of instruction. The only issue raised by the parents in the instant case was whether the school should pay for 365 days of residential placement. The decision of the State Board of Education in In re JEBG, Case No. 1979-5, however, establishes that the Local Board is not required to provide for more than 180-days of educational placement.

The Hearing Officer concludes that the Local Board properly denied any responsibility for paying for more than 180 days of educational placement based upon the previous decision of the State Board of Education.

Part IV

RECOMMENDATION

Based upon the foregoing findings, conclusions, and the record submitted, the Hearing Officer concludes that the Local Board does not have to pay for more than 180 of educational placement. The Hearing Officer, therefore, recommends that the decision of the DeKalb County Board of Education be sustained.



L.O. BUCKLAND
Hearing Officer