

STATE BOARD OF EDUCATION
STATE OF GEORGIA


IN RE: RYAN R. : CASE NO. 1982-3
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ORDER

After consideration of the record submitted and the decision of the regional hearing officer, all as set forth in the attached report, it is

ORDERED, that the decision of the regional hearing officer herein is sustained.

This 9th day of April, 1982.



L. O. BUCKLAND
State Hearing Officer

APR 6 1982

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CASE NO. 1982-3

REPORT OF HEARING
OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Ryan R. (hereinafter "Student") from a decision by a regional hearing officer that the Griffin/Spalding County School System (hereinafter "Local System") could provide a free, appropriate public education for the Student, and the Local System was not required to pay the costs incurred by the parents in having the Student enrolled in a private school. The Student's parents have appealed on the grounds the Regional Hearing Officer overlooked the only credible evidence given at the hearing, and the Regional Hearing Officer erroneously determined that the Local System could provide the Student with a free, appropriate public education. The Hearing Officer recommends that the decision of the Regional Hearing Officer be sustained.

PART II
FINDINGS OF FACT

At the time of the hearing, the Student was enrolled in the seventh grade of a private school where he had voluntarily been placed by his parents at the beginning of the 1981-1982 school year. The Local System had determined that the Student had a learning disability while he was in the fifth grade. While he was in the fifth and sixth grades, Individualized Educational Programs were prepared for the Student, and he received instruction from a learning disabilities teacher and a behavioral disorders teacher while he was attending a regular classroom. At the time of his identification as being learning disabled, the Student was functioning at a second and third grade level. Tests given by the school personnel during the fifth and sixth grade indicated that the Student was making progress in his advancement. The tests of a private psychologist employed by the Student's parents, however, indicated that the Student did not make any progress during the sixth grade, and that he began to develop a very low self-image.

Based upon the private psychologist's recommendation, the Student's parents enrolled him in a private six-week remedial program during the Summer of 1981. The parents noted significant advancement in the Student's

abilities. The private psychologist retested the Student in August, 1981, and also reported that the Student had made progress in his ability to read. The parents, therefore, decided to enroll the Student in a private school because they felt he was not making any progress in the Local System and was being "socially promoted".

The Student's parents requested reimbursement for the tuition and expenses they incurred in having the Student enrolled in the private facility and a hearing on the question of whether the Local System would pay such costs was requested. The hearing before the Regional Hearing Officer was conducted during the period January 5, 1982 through January 8, 1982. The Regional Hearing Officer issued her decision prior to January 22, 1982. The parents appealed the decision to the State Board of Education on March 5, 1982

The Regional Hearing Officer found that the Local System had acted in good faith in providing the Student with an appropriate special education program, and that the Student had been offered a free, appropriate public education. The Regional Hearing Officer also found that the Student had made academic progress while enrolled in the Local System. The Regional Hearing Officer then concluded that the Local System had provided an appropriate education for the Student, it was not required to provide the same program as the Student was receiving in the private school, and the Local System was not

required to pay the costs of the Student attending the private school.

PART III
CONCLUSIONS OF LAW

The Student's parents appealed to the State Board of Education on the grounds the Regional Hearing Officer's decision was erroneous because the Regional Hearing Officer overlooked evidence which demonstrated a lack of good faith on the part of the Local System personnel. In addition, the Student's parents claim that the Regional Hearing Officer overlooked the evidence given by a private psychologist, a pastor, and an employee of the private school. Based upon these allegations of error, the Student's parents contend that the Regional Hearing Officer improperly decided that the Local System did not have to pay for the costs of the Student attending the private school.

The hearing in this case extended over a four day period and produced an 860-page transcript. The Regional Hearing Officer summarized the testimony in ten pages of her decision. Based upon the Regional Hearing Officer's summary of the evidence presented, it appears that consideration was given to the testimony of all parties. Simply because the Regional Hearing Officer only recited some of the facts set forth in the transcript does not establish that any of the

evidence was overlooked. Although the Student's parents point to specific incidents as evidence of a lack of good faith on the part of the Local System which were overlooked by the Regional Hearing Officer, it appears that the Regional Hearing Officer did give consideration to all of the evidence presented. The record contains substantial evidence of the efforts made by the Local System to provide an individualized program for the Student. In reviewing the decision of a regional hearing officer, if there is any evidence to support the decision, it will not be reversed upon review. See, In re Xernona F., Case No. 1981-14; Antone v. Greene County Bd. of Ed., Case No. 1976-11. The Regional Hearing Officer had the responsibility of weighing the testimony of the parties and making a decision. The Student's parents have not shown that the Regional Hearing Officer committed any error in arriving at a decision. The Local System presented evidence of its ability to provide a program for the Student. The fact that the Student made greater progress while enrolled in a private program during the Summer and was making progress in the private school does not establish that the Local System was unable to provide the Student with an appropriate education. The evidence in the record may reflect on the quality of the program offered by the Local System, but it does not establish an inability on the part of the Local System to provide an appropriate program. The Hearing Officer, therefore,

concludes that the Regional Hearing Officer's decision is supported by the evidence contained in the record and no showing has been made that any error of law was committed.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted, and the brief of counsel for the parents, the Hearing Officer is of the opinion that the Regional Hearing Officer did not overlook any of the evidence, that there is evidence in the record which supports the decision of the Regional Hearing Officer, and that the Regional Hearing Officer properly decided that the Local System was not required to pay the expenses of the Student attending a private school. The Hearing Officer, therefore, recommends that the decision of the Regional Hearing Officer be sustained.



L. O. BUCKLAND
Hearing Officer