

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: J.E.B.G. : CASE NO. 1982-14  
: :  
: DECISION OF  
: STATE HEARING OFFICER  
:

PART I

SUMMARY OF APPEAL

This is an appeal from the decision of a regional hearing officer which held that the placement proposed by the Atlanta Public School System (hereinafter "Local System") for J.E.B.G. (hereinafter "Student") was appropriate. The appeal is based on the contention that the Student requires year-around residential treatment and cannot receive an appropriate education in the day treatment program proposed by the Local System. The Local System contends that the Student has shown progress while in a residential treatment program to the point that he now can be served in a less restrictive environment and he needs to be placed into a situation which more nearly parallels the actual experiences he will be facing within a short period of time. It is the decision of the State Hearing Officer that the decision of the regional hearing officer should be sustained.

PART II  
FINDINGS OF FACT

This marks the third time the placement of this Student has been appealed to the State level. See, In Re J.E.B.G., Case No. 1979-5 and In Re J.E.B.G., Case No. No. 1981-27. The Student is now fifteen years of age and has been in a residential program since the inception of his schooling. He has been diagnosed as having childhood autism. The placement offered by the Local System provided that the Student would be placed within the Local System's autistic program during the day.

The Student was initially enrolled in a private residential facility in Atlanta, Georgia in 1972. He remained there until he was temporarily transferred to another residential facility in 1980. In January, 1981, he was enrolled in the residential program of the Brown School in Texas. The transfer to the Brown School was made pursuant to the Student's individualized educational program ("IEP") prepared by the Local System and the Student's parent.

The Student's present IEP was prepared on May 27, 1982. The Student's parent and the Local System agreed upon the goals and objectives set forth in the IEP, but the Student's parent disagreed with where the services should be provided. The Local System recommended that the services could be

provided at its South Metro Psychoeducation Center with the Student attending school during the day and returning home at night. In addition, the Local System proposed that support facilities would be made available to the family.

The regional hearing officer found that the program provided at the South Metro Psychoeducation Center would meet the criteria set forth in the IEP. The hearing officer found that the Student had made progress while in the private residential facility and was beginning to form attachments to his family. He is not destructively aggressive and does not present a runaway risk. The regional hearing officer decided that the South Metro Psychoeducation Center was the least restrictive environment for the Student and it is necessary for the Student to begin his return to the society in which he will find himself shortly.

The regional hearing officer found that the Local System could "provide the education and support services necessary for ... [the Student] to continue his progress and to help him and his family integrate back into the community." The regional hearing officer considered the question of whether the Student would regress if moved from the Brown School to the South Metro Psychoeducation Center and found that there was no evidence to indicate the Student would regress significantly if moved.

The hearing before the regional hearing officer was held on July 13, 1982 and a decision was issued on July 23, 1982.

The appeal to the State Hearing Officer was filed on August 11, 1982 by the Student's parent. At the request of the Student's parent, the time for a decision by the State Hearing Officer was extended and a hearing was held for the purpose of receiving oral arguments from the parties on September 23, 1982.

### PART III

#### CONCLUSIONS OF LAW

The principal contention of the Student's parent in this appeal is that the Student will not be able to obtain an adequate education with the placement proposed by the Local System because the Student still requires structure and continuity throughout each day and he will be unable to obtain the structure and continuity in the home environment. The Student's parent maintains that the necessary structure and continuity cannot be provided in the home because of the circumstances that exist in the home with another child requiring special services. In addition, the daily change in the environment from the South Metro Psychoeducation Center to the home will disrupt the Student. As a result, the Student's parent maintains that the Student's behavior and level of education will be adversely affected. In addition, the Student's parent maintains that, since the Student has been in residential facilities for so many years, a gradual return

to the non-residential environment is dictated; the abrupt change that will occur as a result of the proposed program will result in both behavior and learning regression for the Student. The parent maintains that a change at this time will result in the loss of another year of education for the Student.

The Local System contends that the proposed program is appropriate for the Student. The evidence shows that the program will meet the goals and objectives set forth in the Student's IEP; the Student needs to begin to return to a less restrictive environment in order to begin functioning in society, and the program is presently serving children who are more severely afflicted than the Student and they are making progress. In addition, the Local System maintains that the placement advocated by the Student's parent will result in the Student being placed in the most restrictive environment possible, and this is contrary to the intent and requirements of law.

The Local System also argues that there is substantial evidence contained in the record which supports the decision of the regional hearing officer. There is, however, no evidence which either shows that the proposed program is inadequate or that it will not meet the Student's needs as set forth in the IEP.

There was not any disagreement between the parties concerning the goals and objectives contained in the IEP. The only differences which exist concern where the Student will receive the services necessary to implement the goals and objectives, and the length of time the services will be provided.

There is substantial evidence in the record that the proposed program will meet the Student's needs. The program will provide a structured setting for the Student; it is in a less restrictive environment; the other students who are suffering from severer forms of the Student's handicapping condition are making progress in the program, and the Local System will be able to provide support services for the family.

Although the Student still exhibits inappropriate behavior patterns, the program at the South Metro Psychoeducation Center is designed to cope with such behavior and the support services are designed to cope with the behavior patterns in the home. There was no showing that the Student must be kept within a restricted environment in order to obtain the educational services required by the IEP.

The Local System, and the regional hearing officer, took into consideration the question of the amount of regression the Student would have by being transferred from the Brown School to the South Metro Psychoeducation Center. The evidence

concerning the amount of regression was inconclusive. In the past, the Student has gone through periods of regression whenever there was a change in his environment. Each time, however, he has been able to recover from the regression and reestablish the level of learning and behavior attained before the regression after he had returned to the environment to which he had grown accustomed.

A critical issue in the instant case is whether the required services can be given to the Student once he has left the Psychoeducation Center and returned to his home. In other words, can the services be provided in the home? The Student's parent maintains that the services cannot be provided because of the existing home environment. The contention, however, was not supported by any evidence other than conclusory testimony. There was no showing of what services would be lacking when the Student was in the home environment. The Local System presented evidence that other children were able to receive the required services in similar circumstances. The Local System has also shown that the Student has begun to show signs of attachment for the other family members. It, therefore, appears that, in spite of the Student's parent's fears, services have been and can be provided in the home once the Student has left the Psychoeducation Center.

Based upon the record presented, and the briefs and arguments of counsel, it is concluded that the program proposed

for the Student by the Local System will provide an appropriate public education for the Student. It is, therefore,

DECIDED, that the decision of the regional hearing officer is affirmed.

*L. O. Buckland*  
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L.O. Buckland  
State Hearing Officer