

STATE BOARD OF EDUCATION
STATE OF GEORGIA

IN RE: MORGAN W.)	CASE NO. 1982-27
)	
)	DECISION OF STATE
)	
)	HEARING OFFICER

PART I

SUMMARY OF APPEAL

Morgan W. (hereinafter "Student") is sixteen years old and currently enrolled in a private, residential facility which is certified both as a hospital and as an educational facility. After a hearing was held concerning the special education placement of the Student for the 1982-83 school year, a Regional Hearing Officer decided that the Coweta County School System (hereinafter "Local System") could provide the Student with a free, appropriate public education. The Student's parents appealed the Regional Hearing Officer's decision on the grounds the weight of the evidence demanded that the Student remain in a residential program and, because the Student suffers from a medical problem, the Local System cannot provide the necessary services since it does not have the required medical facilities. As set forth in this decision, the State Hearing Officer sustains the decision of the Regional Hearing Officer.

PART II

FINDINGS OF FACT

The Student has been enrolled in a private, residential facility since August, 1981, when he was admitted by his parents.

A placement committee meeting was held by the Local System on September 1, 1982, to prepare an individualized educational program ("I.E.P.") for the Student. The placement committee prepared an I.E.P. which provided for placement of the Student in the Local System with three hours daily of regular classroom work and the remaining hours in a learning disabilities class. The Student's parents objected to the change in placement and the Local System requested a hearing before a regional hearing officer to determine if the proposed program would be appropriate for the Student.

The hearing before the Regional Hearing Officer was held on November 11, 1982. The Regional Hearing Officer issued his decision on November 30, 1982. The Regional Hearing Officer found that the Local System could provide an appropriate education for the Student in the least restrictive environment. He found that the Student had deficits in the areas of mathematics and English which required individual instruction and counseling. The Regional Hearing Officer decided that the program offered by the Local System could provide the necessary individual instruction and counseling.

The Regional Hearing Officer also found that the Student was suffering from an attention deficit disorder, which had been aggravated by the Student's drug usage. During the fifteen months the Student had attended the private residential facility, he had not received any academic instruction. The Regional Hearing Officer concluded that the Local System could provide

the Student with the required academic instruction, and the Local System had the programs and resources necessary to provide the Student with the related services he required. Additionally, the program offered by the Local System was in a less restrictive environment than was available in the private residential authority.

The evidence presented at the hearing before the Regional Hearing Officer showed that the Student disliked school and resisted authority, especially authority imposed by his parents. In order to participate in any academic studies in the private residential facility, the Student had to exercise the initiative of reading and reporting on one book, but he had not taken any steps towards reading a book during the time he was enrolled in the residential program.

Professional testing and diagnosis showed that the Student has an attention deficit disorder. He is of above average intelligence, but his achievement levels in mathematics and English are lower than grade level. In other areas, he was able to obtain grade level achievement. Because of his disorder, the Student requires individualized attention in order for him to achieve any learning.

The program recommended by the placement committee included two daily hours of learning disability instruction in mathematics and English. The Student will also receive one hour daily of group therapy. During the remainder of the day, the Student will normally be in a regular classroom. In addition, the Local System will provide individual therapy and family counseling.

The Regional Hearing Officer decided that the offered program would provide the Student with a free, appropriate public education in the least restrictive environment. On December 28, 1982, the Student's parents appealed the decision of the Regional Hearing Officer.

PART III

CONCLUSIONS OF LAW

The Student's parents maintain on appeal that the Regional Hearing Officer's decision was erroneous because the only credible evidence presented during the hearing showed that the Student needed to remain in the private residential program in which he is enrolled. The Local System, however, argues that there is evidence in the record which supports the Regional Hearing Officer's decision.

The Student's parents point out that the Student's problem is a medical one and the only physician who testified at the hearing recommended that the Student should remain in the residential program. They also argue that the Local System personnel spent only a limited amount of time with the Student and were not, therefore, as competent to evaluate the Student's needs as were the personnel from the residential treatment center who recommended continued residential placement.

A review of the record and documents presented shows that there was evidence which supports the decision of the Regional Hearing Officer. The Student requires individual instruction in mathematics and English. He also requires a structured environment and counseling. The program offered by the Local System

will meet these needs. In addition, the Local System will provide the Student and his family with both group therapy and family counseling.

The Student's parents also argue that the Student requires residential treatment so that he will be removed from a peer group which is involved in drug usage. The Local System, however, is responsible for providing an adequate educational program for the Student. The Local System can provide an adequate educational program to the Student in a structured environment which will deny him access to drugs. The Local System is not required to provide the Student with a residential program because of his medical or psychiatric needs or because of the environment which exists outside the school when it can provide an adequate educational program in a less restrictive environment. See, In Re: Victor B., Case No. 1981-1; In Re: Richard H., Case No. 1980-28.

The amount of time which an evaluator spends in testing and personal contact has not been shown to be a determinant factor in establishing the validity of the evaluator's observations and recommendations. A regional hearing officer, therefore, can weigh the testimony of both those who have had considerable contact with a student and those who have had only minimal contact in a testing or observation situation. The length of time may affect the weight given by a regional hearing officer, but it does not necessarily demand total rejection of the testimony. The Hearing Officer, therefore, concludes that the Regional

Hearing Officer could accept and follow the recommendations of the Local System's witnesses.

PART IV

DECISION

Based upon the foregoing findings and conclusions, the record submitted, and the briefs of counsel, the Hearing Officer is of the opinion that the record contains evidence which supports the Regional Hearing Officer's decision and that no error of law has been shown. The decision of the Regional Hearing Officer is, therefore, SUSTAINED.



L. O. BUCKLAND
STATE HEARING OFFICER