

STATE BOARD OF EDUCATION

STATE OF GEORGIA

JAMIE E.,)	
)	
Appellant,)	CASE NO. 1986-4
)	
v.)	DECISION OF STATE
)	HEARING OFFICER
COBB COUNTY)	
BOARD OF EDUCATION,)	
)	
Appellee.)	

PART I

SUMMARY

This is an appeal by the parents of Jamie E. (hereinafter "Student") from a decision of a Regional Hearing Officer that the Student should be served in a special education program away from her home school. The parents contend on appeal that the Student should be placed in her home school instead of the school designated by the I.E.P. The decision of the Regional Hearing Officer is sustained.

PART II

FACTUAL BACKGROUND

The Student is a seven-year-old female who has spina bifida. She can walk limited distances, needs to be catheterized, and has a shunt to drain fluids from her brain and other parts of her body.

The Student was in a regular education classroom in her home school when a program coordinator for the special education department for the Local System noticed, during a classroom

observation, that the Student had distractibility problems. The Student was referred to special education and an I.E.P. was drawn up which called for placement of the Student in a program for the orthopedically handicapped at a school in a different part of the county. The parents objected to the placement and requested a hearing.

The hearing was held over the course of four days beginning November 15, 1985 and ending December 19, 1985. At the hearing, the parents presented fourteen witnesses including the Student, the Student's mother, several nurses who had worked with the Student, various Local System personnel, a supervisor of the Physical Therapy Department operated by the Department of Human resources, and a clinical psychologist. The Local Board presented seven additional witnesses, all of whom were employees of the Local Board. As the Regional Hearing Officer stated in his decision, "virtually all of the witnesses testified as to the child's deficits caused by her distractibility, substandard motor skills and perceptual ability."

The Regional Hearing Officer issued a decision on February 10, 1986 that the program offered by the Local Board was an appropriate program. The parties granted the Regional Hearing Officer an extension of time of 25 days from the date he received the local transcript to issue his decision. The decision was issued in a timely manner. The parents filed a timely appeal on February 28, 1986.

PART III

DISCUSSION

The parents contend on appeal that the Student should be allowed to attend her home school and that the Local Board has not demonstrated a need to place the Student in a school other than her home school. They contend that, although the Student does have some learning problems, these problems are a result of a learning disability rather than her orthopedic

handicap and that the Student's needs can be met in her home school through the learning disability programs offered in the home school.

The Local Board contends on appeal that there is substantial evidence to support the Regional Hearing Officer's finding that the placement offered by the Local Board is appropriate.

The State Hearing Officer is bound to affirm the decision of the Regional Hearing Officer if there is substantial evidence to support that decision. State Board Policy JQAA, June, 1984; Georgia Special Education State Program Plan FY 84-86, pg. 51. In the present case, there is substantial evidence to support the decision of the Regional Hearing Officer. As agreed upon by both parties, the Student has learning problems. No witness was able to testify the Student was learning disabled within the meaning of the State Department of Education Regulations and Procedures. Several witnesses testified the Student's distractibility and short attention span were related to her orthopedic handicap. Additionally, the majority of the witnesses testified the Student needed instruction in a classroom with a lower pupil/teacher ratio. The placement offered by the Local Board meets those requirements in addition to providing the Student with adaptive physical education, occupational therapy, physical therapy, and other services. The proposed placement is in a regular school where the Student will be educated with non-handicapped students. Thus, there is substantial evidence to support the Regional Hearing Officer's decision that the proposed placement constitutes a specially designed program to meet the Student's individual needs in the least restrictive environment.

The parents raised two additional issues on appeal. First, the parents contend that the Local Board has refused the continuation of services during the pendency of appeal. Second, the parents contend the Local Board has refused to provide the service of a lift bus. These contentions relate to actions allegedly taken or not taken by the Local Board after the

conclusion of the hearing below. Because these allegations concern actions allegedly occurring after the hearing below, there is no evidence before the State Hearing Officer concerning these contentions. Such contentions should be addressed in a subsequent hearing or through the complaint procedures provided for under Georgia State Plan for Special Education.

PART IV

DECISION

Based upon the foregoing discussion, the record presented, and the briefs and arguments of counsel, the State Hearing Officer is of the opinion the decision of the Regional Hearing Officer that the Local Board offered an appropriate placement is supported by substantial evidence. The decision of the Regional Hearing Officer is, therefore,

SUSTAINED.

This 31st day of March, 1986.

L. O. BUCKLAND
State Hearing Officer