

STATE BOARD OF EDUCATION

STATE OF GEORGIA

ROY S.,)	
)	
Appellant,)	
)	CASE NO. 1986-11
v.)	
)	DECISION OF STATE
BIBB COUNTY BOARD)	HEARING OFFICER
OF EDUCATION,)	
)	
Appellee.)	

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Roy S. (hereinafter "Student") from a decision of a Regional Hearing Officer that the Local Board must refer the Student to the Department of Human Resources (hereinafter "DHR") for hospitalization and medication and provide the educational services necessary to implement his I.E.P. No grounds for appeal were stated in Appellant's letter of appeal and no brief in support of the appeal was filed. The Local Board contends the appeal was not timely filed, the appeal failed to comply with the rules of the State Board of Education in that it did not state the questions and issues in dispute, and the decision of the Regional Hearing Officer was correct. The State Hearing Officer finds the appeal should be dismissed.

PART II

FACTUAL BACKGROUND

The Student is a nineteen-year-old male who suffers from mental retardation and an emotional disturbance. Both the parents and the Local Board agree that a public school setting is not currently appropriate for the Student. The Local Board initially took the position that any

education was inappropriate for the Student but, at the hearing below, conceded it had a duty to provide educational services in whatever setting the Student was placed. The Local Board took the position that the Student should be referred to DHR for hospitalization and medication and then should receive educational services in that setting.

Appellant, at the hearing below, agreed that residential placement was necessary, but did not agree that the residential placement should be in a DHR institution. The Student had spent a short time in a DHR institution in the past and had received some cuts and bruises. Because of that previous experience with DHR, the parents objected to placement within an institution run by DHR.

The hearing below was held beginning on January 31, 1986 and concluding with depositions taken on February 6 and 7, 1986. The Regional Hearing Officer's decision was issued on March 5, 1986 and this appeal was received in the State Superintendent's Office on April 10, 1986. The appeal letter does not state the questions and issues involved and the reasons why the appeal is alleged to be erroneous.

PART III

DISCUSSION

The regulations of the State Board of Education provide the timelines for, and the method and manner of, appeals from decisions of regional hearing officers. The regulations provide that:

Any party requesting a state review shall send a written or electronic verbatim record of the proceedings to the State Superintendent of Schools. The party shall include a statement distinctly setting forth the questions and issues involved and the reasons why the decision appealed is alleged to be erroneous. This appeal must be filed within 30 calendar days following the decision at the local level.

The Local Board has taken the position that the appeal did not state the reasons for the appeal and was not filed within thirty days following the decision of the Regional Hearing Officer and should, therefore, be dismissed for failure to comply with the regulations of the State Board of Education.

The failure to provide reasons for the appeal, and to file the appeal within thirty days of the decision of the Regional Hearing Officer, warrants dismissal of the appeal. The State Hearing Officer is at a loss to guess what issues are being appealed by Appellant. Appellant was represented by an attorney before the Regional Hearing Officer and the appeal was filed on behalf of Appellant by an attorney. While an administrative proceeding does not require the complete formalities of a judicial proceeding, an appellant must make the reviewing officer aware of what issues the appellant contests. If the issues were clear from the record below, the State Hearing Officer might rule on those issues, but, in this case, it is difficult to tell what the dispute on appeal is about. The parties reached agreement that the Student needs to be placed in a private residential institution and that the Student must be provided an education in that setting. The Hearing Officer ruled that the Student should be referred to DHR for hospitalization and medical treatment and receive educational services in whatever setting he is placed. All of the expert testimony was consistent with the Regional Hearing Officer's decision. The State Hearing Officer is unable to determine upon what legal grounds Appellant relies for this appeal. Additionally, the regulations require the appeal be filed within thirty calendar days following the decision at the local level. The Regional Hearing Officer issued his decision on March 5, 1986. This appeal was dated April 4, 1986 but not received by the State Department of Education until April 10, 1986. In order to be filed properly, the decision must be delivered to the State Department of Education within the thirty day time period.

PART IV

DECISION

Based upon the foregoing discussion, the record presented, and the brief of counsel for the Local Board, the State Hearing Officer is of the opinion Appellant did not comply with the requirements for filing the appeal. The appeal is, therefore,

DISMISSED.

This 12th day of May, 1986.

L. O. BUCKLAND
State Hearing Officer