

STATE BOARD OF EDUCATION

STATE OF GEORGIA

MCLEAN L.,)	
)	
Appellant,)	CASE NO. 1986-40
)	
V.)	
)	
COLQUITT COUNTY BOARD)	DECISION OF
OF EDUCATION,)	STATE HEARING OFFICER
)	
Appellee.)	

**PART I
SUMMARY**

This is an appeal by the mother of McLean L. (hereinafter "Student") from a decision of a Regional Hearing Officer that the transfer of the Student from R. B. Wright Elementary School (hereinafter "Wright") to Cox Elementary School (hereinafter "Cox") does not constitute a change in placement and that the program offered by the Colquitt County Board of Education (hereinafter "Local Board") at Cox is substantially the same as the program sought by the mother at Wright. The mother contends on appeal that the Regional Hearing Officer failed to consider the potentially harmful effects of the transfer, the Regional Hearing Officer misinterpreted the testimony of the mother's expert witness, and the Regional Hearing Officer simply carried out the process without giving attention to the child's needs. The decision of the Regional Hearing Officer is sustained.

PART II

FACTUAL BACKGROUND

The Student as a ten year old male who has a specific learning disability. The Student is eligible for special education services and was served under an Individualized Education Plan (“IEP”) in Wright during the 1985-S6 school year. That IEP called for the Student to receive resource help for two and one-half hours a week and be placed in regular education for the remainder of his time in school.

The Local Board modified its attendance zones for the 1986-87 school year such that the Student would be required to attend Cox instead of Wright, due to the fact that the Local Board is under a desegregation order, the Local Board had the modifications approved by the Federal Court.

As a result of the modification of attendance zones, the student’s new TEP provided that the services would be implemented either at Cox or Wright. The mother objected to the fact that the Local Board intended to send the Student to Cox and requested a hearing. The hearing was held on July 28, 1986.

At the hearing, the mother’s attorney conceded that the program offered at Cox will be the same as the program offered at Wright. It was the mother’s contention, however, that the Student would suffer a harmful effect as a result of the transfer. The mother testified that the Student was an anxious child and she felt the transfer would have an adverse effect on his education. The expert witness presented by the mother testified that the transfer would cause anxiety “which will probably delay his learning from three months to six [months] and maybe he will lose a year.”

The Local Board presented evidence that the program to be provided at Cox will essentially be the same as the one provided at Wright, and that the program at Cox will have special education teachers who are trained to help the Student adjust to the new school.

The Regional Hearing Officer issued a decision on August 21, 1986, which concluded, in part: "The transfer may cause anxiety to the child, just [as] it would to any other child, handicapped or non-handicapped. The child must learn to adjust to the many changes that will surely occur in his life." The Regional Hearing Officer further concluded that the evidence did not support the parent's contentions, the transfer did not constitute a change in placement, and Cox was the proper placement for the Student.

The mother filed this appeal on September 17, 1986.

PART III

DISCUSSION

The mother contends on appeal that the Regional Hearing Officer failed to consider the potentially harmful effects of the transfer, the Regional Hearing Officer misinterpreted the testimony of the mother's expert witness, and the Regional Hearing Officer simply carried out the process without giving attention to the child's needs.

The State Hearing Officer is bound to sustain the decision of the Regional Hearing Officer if the decision is consistent with the law and 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.

The record does not support the mother's first contention, that the Regional Hearing Officer failed to consider the potentially harmful effects on the Student. The Regional Hearing officer discussed the anxiety which might be caused by the transfer, but found contrary to the

mother's contention. Testimony regarding the Student's anxiety was purely speculative and based upon opinion which had to be weighed by the Regional Hearing Officer. Potential feelings of anxiety, however, do not establish that the proposed placement is inappropriate.

The mother's second and third contentions on appeal also do not warrant reversal of the Regional Hearing Officer's decision. Any misinterpretation by the Regional Hearing Officer of the expert witness' statement, that the Student was severely learning disabled, is irrelevant to the issue of whether the placement offered by the Local Board is appropriate, especially in light of the fact that both parties agreed the program offered was appropriate. The contention that the Regional Hearing Officer simply carried out the process and failed to give consideration to the child's needs is without merit. The Regional Hearing Officer's opinion reflects a careful review of the record, and a discussion of the concern regarding the anxiety of the Student, but then simply reaches a conclusion adverse to the wishes of the mother.

PART IV

DECISION

Based on the foregoing discussion, the record presented, and the briefs and arguments of the parties, the State Hearing Officer is of the opinion the Local Board offered the Student an appropriate education and the transfer did not constitute a change in placement. Therefore, the decision of the Regional Hearing Officer is

SUSTAINED.

This 17th day of October, 1986.

L. O. Buckland
State Hearing Officer