

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DONALD C.

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CASE NO. 1980-3

O R D E R

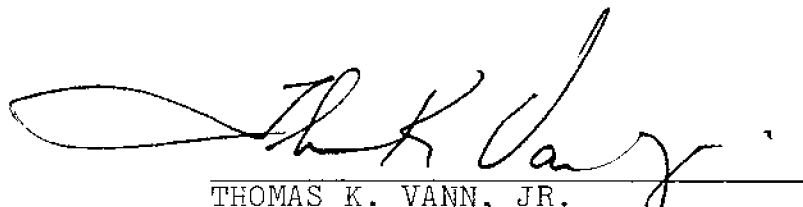
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the DeKalb County Board of Education herein appealed from is hereby affirmed.

Mrs. Oberdorfer, Mrs. Huseman, Messrs. Foster and McClung were not present.

This 13th day of March, 1980.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

MAY 19 1980

STATE BOARD OF EDUCATION
STATE OF GEORGIA

IN RE: DONALD C. : CASE NO. 1980-3
: :
: REPORT OF
: HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an automatic appeal following a decision by the DeKalb County Board of Education (hereinafter "Local Board") rejecting the decision and recommendation of a regional hearing officer in connection with the payment of special education services for Donald C. (hereinafter "the Student"). The Local Board accepted the findings and conclusions of the regional hearing officer except for those parts from which an inference might be drawn that the local school system had to pay for more than 270 days of educational services. The Hearing Officer recommends that the decision of the Local Board be upheld.

PART II

FINDINGS OF FACT

The Student, a twelve year old, was admitted to a private residential psychiatric facility located in Texas on

November 12, 1979. His admittance was the result of the individualized education program ("IEP") prepared by the local school system following a number of fire setting incidents. The Student's parents agreed to the placement but requested a due process hearing because the local school system agreed to pay for attendance at the private facility only through June 4, 1980. The hearing before the regional hearing officer was held on December 12, 1979. His decision was rendered on December 21, 1979. He found that the existing IEP was prepared for the purpose of placement in the private residential facility and that a new IEP was in the process of being prepared by the private facility following diagnostic testing. He also determined that the Student should remain in the private facility if the approved IEP required the Student's attendance beyond June 4, 1980.

The Local Board, on January 6, 1980, rejected the recommendation of the hearing officer because (1) the local school system is constitutionally not permitted to expend funds for more than 270 days of educational benefits, and (2) the parents failed to carry the burden of proof that there was a need for residential placement in the private facility beyond June 4, 1980. The Local Board agreed to conduct an evaluation of the Student during the spring of 1980 on a timely basis so the Student's education would not be interrupted. The Local Board also agreed to determine if funding sources were available for a summer program and to inquire into the reimbursement of any diagnostic and evaluation costs.

PART III
CONCLUSIONS OF LAW


The issues in this case are the same as those contained in the case of In Re: Karen W., Case No. 1980-1 and that case is controlling. The State Board of Education, in the case of In Re: J.E.B.G., Case No. 1979-5, decided that a local board of education is not required to pay for more than 180 school days of educational benefits. According to the evidence presented at the hearing, this has been extended by the State Department of Education to provide for 270 days of educational benefits in the case of students who are placed in residential treatment facilities. The Local Board, therefore, properly decided that it would not pay for more than 270 days of educational benefits.

As noted by the regional hearing officer, the issue of whether the local school system should pay for residential services beyond June 4, 1980 is somewhat premature in that the Student will be evaluated prior to that date to determine whether residential treatment is necessary.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions, the Hearing Officer is of the opinion that the DeKalb County Board of Education properly entered a decision rejecting the

regional hearing officer's inferences that it was liable for residential expenses that would be incurred by the Student's parents beyond June 4, 1980. The Hearing Officer, therefore, recommends that the decision of the DeKalb County Board of Education be upheld in this matter.



L. O. BUCKLAND
Hearing Officer

parents choose to place the child in a private school or facility, the public agency is not required...to pay for the child's education at the private school or facility."

Since the parents voluntarily withdrew the Student from the public school system when an approved and accepted IEP was in effect, the local school system is not required to make payments for the 1978-79 school year.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, the record submitted and the briefs of counsel, the Hearing Officer is of the opinion that the Local Board is not responsible for payment of the residential facility services during the 1978-79 school year when the parents voluntarily withdrew the Student from the local school system. The Hearing Officer, therefor, recommends that the decision of the Bibb County Board of Education be sustained.



L. O. BUCKLAND
Hearing Officer