

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: EDWIN L.

:
:
:

CASE NO. 1981-8

O R D E R

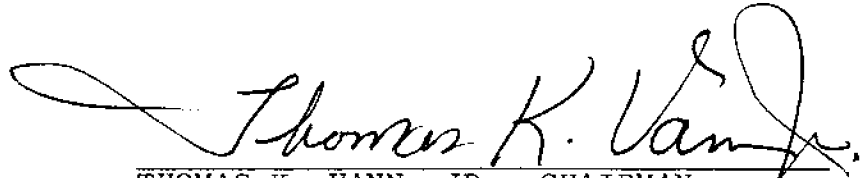
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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 regional hearing officer herein appealed from is hereby sustained.

Mr. Foster was not present.

This 12th day of March, 1981.


THOMAS K. VANN, JR., CHAIRMAN
Acting for Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: EDWIN L. : CASE NO. 1981-8
: :
: : REPORT OF
: : HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Edwin L. (hereinafter "Student") from the decision of a Regional Hearing Officer that the Cobb County School System (hereinafter "Local System") could provide a free, appropriate, public education for the Student. The Student's parents have appealed to the State Board of Education on the grounds the evidence shows the Student needs year-round residential treatment. The Hearing Officer recommends that the decision of the Regional Hearing Officer be sustained.

PART II

FINDINGS OF FACT

A hearing was held before a Regional Hearing Officer on December 12, 1981. The Regional Hearing Officer issued a report on January 6, 1981. The Regional Hearing Officer found that the Local System could provide an appropriate educational placement for the Student in the severely emotionally disturbed program operated by the Local System. The Cobb County Board of Educa-

tion adopted the recommendation of the Regional Hearing Officer and an appeal to the State Board of Education was filed on February 11, 1981.

The Student is 16 years old and would have been repeating the ninth grade for the third time if he was in attendance in the Local System. The Student's parents had him committed to a private residential psychiatric treatment center on September 10, 1980, after he burglarized a home and was placed under the supervision of the Juvenile Court. The Student's tests showed he had high-normal intelligence and the ability to do eleventh grade work. The Student admitted to smoking marijuana on a daily basis. He was frequently truant and, while in attendance at school, he was listless, did not participate, did not complete his assignments, and refused to do any work whatsoever. In the home, the Student was in constant conflict with his two sisters and mother.

The Regional Hearing Officer's report contained, in part, the following findings and conclusions:

1. The Student was severely emotionally disturbed and, therefore, handicapped under the provisions of Public Law 94-142.
2. The Student's residential placement was not the least restrictive environment in terms of the educational and related services he needed.
3. The Student's drug abuse, emotional conflicts within the family, and a history of suffering from chronic asthma created an emotional imbalance which affected the Student's ability to

satisfactorily perform in the regular classroom.

4. The Student needs an intensive program of psychotherapy.

5. The severely emotionally disturbed program provided by the Local System could provide the psychotherapy, structured program, and related services needed by the Student, and the Local System could adequately meet the educational needs of the Student.

6. The recommendations for a private residential facility submitted by the witnesses on behalf of the Student's parents were made for the purpose of removing the Student from potential problems in the home and to offer the opportunity for more rapid personality modification.

7. The Local System was not required to provide residential treatment to remove the Student from potential home problems when the Local System could provide an appropriate educational placement for the Student in the severely emotionally disturbed program.

9. The Student's parents unilaterally placed the Student in the private residential program and, therefore, could not receive reimbursement from the Local System for the expenses they incurred.

PART III

CONCLUSIONS OF LAW

The Student's parents appealed to the State Board of Education on the grounds that the Student needed long-term, 24-hour

a day residential placement in excess of 180-days per year, that residential placement was the least restrictive environment in which the Student could effectively function, and the program offered by the Local System was not an appropriate educational placement for the Student. The Hearing Officer concludes that the records submitted support the findings and conclusions reached by the Regional Hearing Officer. The Local System has the ability to provide the Student with a program which meets the needs outlined in his individualized educational program. The Local System is not required to provide a residential program in order to remove the Student from his home environment, to reduce his access to drugs, and to provide him with psychiatric and psychological counseling beyond that outlined in the Student's individualized program. See, In Re Victor B., Case No. 1981-1. The Local System is required to provide a residential program only if the program is necessary to provide a student with special education and related services. See, 45 CFR §121a.302. Since the Local System can meet the special educational needs of the Student through the behavioral disorders program offered, the Local System has fulfilled its responsibility in providing a free, appropriate, public education for the Student. The Hearing Officer, therefore, concludes that the decision of the Regional Hearing Officer was correct.

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 System has an adequate program for the Student and that the evidence contained in the record supports the decision of the Regional Hearing Officer. The Hearing Officer, therefore, recommends that the decision of the Regional Hearing Officer be sustained.

(Harmon, Smith & Bridges, John M. Leiter, appearing for parents; Bentley & Bentley, Fred D. Bentley, Sr.; Richard H. Still, appearing for Cobb County School System.)

L. O. Buckland

L. O. BUCKLAND
Hearing Officer