

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: CHRISTOPHER M.

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CASE NO. 1981-18

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,

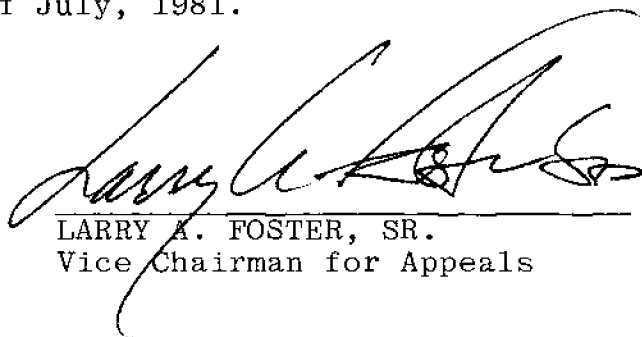
DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the regional hearing officer herein appealed from is hereby sustained.

Mr. Lathem abstained.

Mr. McClung was not present.

This 9th day of July, 1981.



LARRY A. FOSTER, SR.  
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: CHRISTOPHER M.

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CASE NO. 1981-18

REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Christopher M. (hereinafter "Student") from the decision of a Regional Hearing Officer that the Hall County School System (hereinafter "Local System") could provide a free, appropriate, public education for the Student. The Student's parents appealed to the State Board of Education on the ground the evidence shows the Student needs 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 May 4 and May 5, 1981 on the question of whether the Local System's proposed placement of the Student was appropriate. The Regional Hearing Officer issued her report on May 19, 1981 wherein she concluded that the Local System could provide an

appropriate education for the Student. The Hall County Board of Education adopted the decision of the Regional Hearing Officer and the Student's parents filed their appeal to the State Board of Education on June 10, 1981.

The Student is fourteen years old and will be eligible to enter the ninth grade during the 1981-82 school year. The Placement Committee met on April 14, 1981 and recommended that the Student be placed in the Apollo Psychoeducational Center. At the time of the recommendation, the Student was in a private residential facility where he had been placed by his parents on February 24, 1981. The Student had been in a variety of special education programs within the Local System since the first grade. Tests indicated he was borderline gifted, but he had problems relating to other students, questioned authority, and was withdrawn. While there was substantial conflict in the home environment with his parents and siblings, the Student did not present any aggressive behavior in the school. The Student was able to maintain passing grades in his classes and his achievement levels were at grade level.

The Regional Hearing Officer found, in part, that:

1. The Student improved academically through seven years of schooling, particularly when on a one to one basis.

2. The Student had nominal success through the fifth grade, but his home problems began to escalate during 1979 when he was hospitalized for two months due to hallucinations and two suicide attempts.

3. Upon his release from the hospital, the Student was placed in a structured special education class where his academic performance was very good. However, because of his dislike for special education, he was placed in the regular school program at the parents request.

4. The Student was able to maintain control for a period of time in the regular classroom, but his condition began to deteriorate. He was withdrawn from the Local System by his parents and enrolled in a private residential facility.

5. The Student needs a structured environment in both the home and the school.

6. The education program proposed by the Local System will provide a structured program with 25 hours per week in a psycho-education center; aid in gifted work; group, family, and individual counselling; behavior disorder resource, and physhiatric consultation.

Based upon her findings, the Regional Hearing Officer concluded that residential placement of the Student was not the least restrictive environment for the Student; the Student needs an intensive program of psycho-therapy; and the severely emotionally disturbed program provided by the Local

System can provide the psycho-therapy and structured program needed by the Student, and the Local System can provide an appropriate education for the Student. The Regional Hearing Officer also found that the parents had unilaterally placed the Student in the private residential program and, therefore, were not entitled to reimbursement from the Local System for the expenses they had incurred.

### PART III

#### CONCLUSIONS OF LAW

The Student's parents appealed to the State Board of Education on the ground the evidence did not support the decision of the Regional Hearing Officer. The Student's parents contend the evidence shows that the Local System has been unable to provide the Student with an appropriate education because he has not achieved in accordance with his intelligence level. They also point to the reports by the psychiatrists and psychologists which state that the Student is in need of long-term residential treatment.

The Hearing Officer concludes that the record supports the decision of the Regional Hearing Officer. The Student was able to academically progress at grade level throughout his school career; he did not exhibit any aggressive behavior problems in the school; he was able to academically progress while he was in a structured environment, and the


Local System can provide all of the services outlined in the Individualized Education Program. As pointed out in the case of In re Edwin L., Case No. 1981-8, the Local System is required to provide a residential program only if the program is necessary in order to provide the Student with a special education and related services. The evidence shows in the instant case that the Student has been able to progress academically throughout his school career through the programs provided by the Local System. The fact that he has not performed at a level at which he might theoretically be capable of performing does not establish that he has been deprived of an appropriate education.

#### 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.

Appearances: For parents - George W. Brown, Jr.; For Hall County School System - Harben & Hartley, Sam S. Harben, Jr.

  
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L.O. Buckland  
Hearing Officer