

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: LEISA H.

:

CASE NO. 1981-35

O R D E R

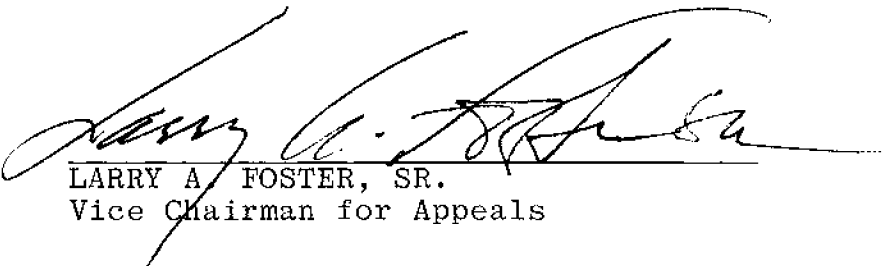
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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.

Mrs. Oberdorfer and Mr. Lathem were not present.

This 12th day of November, 1981.



LARRY A. FOSTER, SR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

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CASE NO. 1981-35
REPORT OF HEARING
OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Leisa H. (hereinafter the "Student") from the decision of a regional hearing officer that the Student was not handicapped and, therefore, not eligible for funding by the Madison County School System (hereinafter "Local System") for her attendance at a private residential facility where her parents had placed her. The parents contend that the evidence shows that the Student was suffering from a learning disability and a behavioral disorder which placed her in the category of being a handicapped child. The Hearing Officer recommends that the decision of the Regional Hearing Officer be sustained.

PART II

FINDINGS OF FACT

The Student is seventeen years of age and currently attending a private residential facility where she was

placed by her parents in April, 1980. During the summer of 1981, the parents approached the Local System and inquired about financial assistance. The Local System reviewed the circumstances and available information and determined that the Student was not handicapped and therefore ineligible for funding. The parents then requested a hearing to determine if the Student was handicapped. The hearing before the Regional Hearing Officer was conducted on August 31, 1981, and September 4, 1981. The Regional Hearing Officer issued her report on September 14, 1981. The Madison County Board of Education accepted the report on September 29, 1981. The appeal by the Student's parents was filed with the State Board of Education on October 9, 1981.

The Regional Hearing Officer found that the Student had been placed in the private residential facility at the request of her parents after she had been placed under the custody of the Department of Human Resources by a juvenile court order. Her placement in the private facility was made in order to avoid her detention in a Youth Development Center.

The Regional Hearing Officer found that the Student had made normal progress until the sixth grade when she had some difficulty with her grades. After the seventh grade, the Student developed a pattern of drug and alcohol abuse, run-away behavior, avoidance of authority, and severe conflict with her parents. Juvenile Court personnel

became involved, but their attempts at intervention and counselling were of no avail. The Student ran away from home for a three month period of time during the tenth grade, and, upon her return, she refused to attend school. Her parents then enrolled her in another county school system, but she continued to refuse to attend classes. It was then that she was placed into the private residential facility.

When the Student's parents requested funding, the Local System's psychometrist was unavailable and the Local System employed a psychologist to evaluate the Student's records in order to make a determination if the Student had a learning disability or behavioral disorder that warranted her classification as a handicapped child. The Regional Hearing Officer concluded that the employment of the psychologist to review the Student's records did not violate any confidentiality or due process rights of the parents or the Student.

The Regional Hearing Officer also decided that the parents due process rights were not violated when the Local System did not invite them to attend all of the meetings where school personnel discussed the Student's case and decided that she was not handicapped. The Regional Hearing Officer reasoned that the parents had not requested placement of the Student, but were seeking funding for the placement they had selected, and there was no

requirement for parent participation in the absence of a decision concerning placement.

The Regional Hearing Officer found that the Student was socially maladjusted, but she did not have a learning disability and did not have a behavior disorder of such magnitude that she could be classified as handicapped under the provisions of Public Law 94-142 and the related federal and state regulations. The behavior the Student exhibited was similar to that of many adolescents, or was the result of her not attending school, or resulted from her abuse of drugs and alcohol. The reports of the psychiatrists, psychologists, and counsellors did not indicate that she had any perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia or developmental aphasia, nor was there any evidence that the Student had any difficulty in understanding anything. The Student had the ability to learn when she attended school.

PART III

CONCLUSIONS OF LAW

The Student's parents contended that the Student suffered from a learning disability which was not discovered and resulted in her development of a low self-image which led to her anti-social behavior. They argued that the reports of the juvenile court counsellor, the psychiatrist employed by the private residential facility, and a

psychologist who examined her prior to the hearing, all of whom recommended residential treatment, established that the Student was now behaviorally disordered and in need of special education.

The record, however, supports the conclusions of the Regional Hearing Officer. The Student did not exhibit any problems during her first five years in school and received excellent grades. Her grades deteriorated during the sixth grade when she moved into a new school, but they improved to their former level during the seventh grade. She became involved with drugs and alcohol during the eighth grade and her truancy and problems with her parents increased. When she was in attendance and participated in the school and the classes, she did not have any problems in learning the material presented, even in the absence of any special education instruction. Her behavior while she was in school was not aggressive. She participated when she wanted to participate, and simply refused to participate when it did not suit her desires. Other behavior she exhibited in the school was not unlike that of the other students, even though she was abusing both drugs and alcohol. She was voluntarily placed into the private residential facility by her parents in order to avoid her detention in a Youth Development Center,¹ and not because of

¹The Regional Hearing Officer noted that there was a possibility of mootness because the Local System did not

her need for special education. The Hearing Officer, therefore, concludes that the record supports the decision of the Regional Hearing Officer that the Student was not handicapped.

The parents contended during the hearing that the Local System violated their rights and the Student's rights to confidentiality when the Local System employed a psychologist to review the Student's history in order to give them an evaluation of the special education needs of the Student. The Hearing Officer concludes that the Regional Hearing Officer correctly concluded that the confidentiality rights of neither the parents or the Student were violated when the Local System employed the psychologist to conduct the review. It is immaterial whether he was employed as an employee or as an independent contractor. He was acting on behalf of the Local System in conducting the evaluation, and the Local System was carrying out the mandates of law that an evaluation be obtained.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, and the record submitted, the Hearing Officer is of the

have jurisdiction over the Student, since she was under the jurisdiction of the Department of Human Resources, and any decisions by the Local System could not have been carried out without an order from the juvenile court, but no decision was made on the issue.

opinion that the Regional Hearing Officer correctly concluded that the Student was not handicapped and that the Local System, therefore, was not required to pay for the costs incurred by the placement of the Student in a private residential facility by her parents. The Hearing Officer, therefore, recommends that the decision of the Regional Hearing Officer be sustained.

L. O. Buckland

L. O. BUCKLAND
Hearing Officer