

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: DONNIE C.

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CASE NO. 1981-36

O R D E R

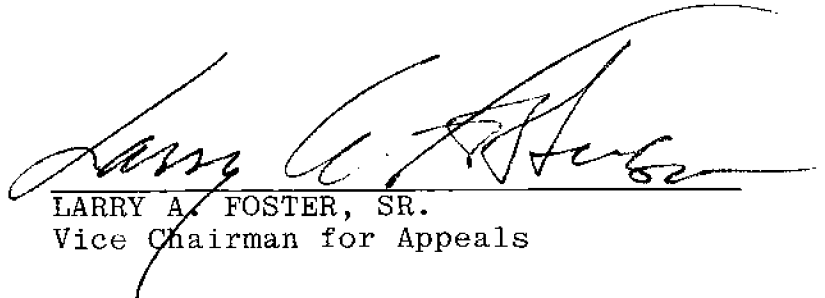
THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

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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REPORT OF HEARING OFFICER

PART I

SUMMARY OF APPEAL

This is an appeal by the parent of Donnie C. (hereinafter "Student") from a decision by a regional hearing officer that the DeKalb County School System (hereinafter "Local System") could provide a free, appropriate public education for the Student in its Severely Emotionally Disturbed program. The Student's parent contends that the transfer from a private residential facility is premature. The Hearing Officer recommends that the decision of the Regional Hearing Officer be upheld.

PART II

FINDINGS OF FACT

The Student, who is now age thirteen, has been in a private residential facility for two years. Before being placed in the private residential facility, the Student was enrolled in the Severely Emotionally Disturbed program of

the Local System. He was initially enrolled in the Severely Emotionally Disturbed program in 1974. The Local System recommended his placement in the private residential facility following two fire-setting incidents in the latter part of 1978. An annual review of the Student's placement was conducted during May, 1981, and the Placement Committee recommended the Student's transfer to the Severely Emotionally Disturbed program operated by the Local System. The Student's parent disagreed and requested a hearing before a regional hearing officer. The Regional Hearing Officer issued his opinion on September 24, 1981, following a hearing on September 16, 1981. The DeKalb County Board of Education accepted the Hearing Officer's recommendation on October 5, 1981 and an appeal was filed by the Student's parent to the State Board of Education on October 13, 1981.

Between 1974 and 1979, the Student made educational progress. During his stay at the private residential facility, he has continued to make academic progress and there has been no indication that he has any propensity to set fires.

The Regional Hearing Officer found that the educational programs offered at the private residential facility and in the Local System's Severely Emotionally Disturbed program were very similar. He also found that the Local System's program had adequate support personnel to meet the

needs of the Student. The Regional Hearing Officer determined that the only reason the Student was initially placed in the private residential facility was because of his fire-setting activities. Since the Student no longer exhibited any tendency to set fires, the Regional Hearing Officer concluded that the Severally Emotionally Disturbed program provided by the Local System was the least restrictive environment for the Student. He therefore, recommended transferring the Student from the private residential facility to the Local System's program.

PART III

CONCLUSIONS OF LAW

The Student's parent's only contention on appeal is that the transfer of the Student from his present placement is premature and that he still requires residential treatment. The record, however, supports the Regional Hearing Officer's findings that the Severely Emotionally Disturbed program provided by the Local System can meet the needs of the Student. The Student was able to make educational progress when he was previously enrolled in the program, and he continues to make such progress in the private residential facility. The only reason he was initially institutionalized was because of his fire-setting activities, and there has not been any recent indication that he is

inclined to continue setting fires. Additionally, Public Law 94-142 requires the Student to be placed in the least restrictive environment. The record contains recommendations by the personnel employed by the private residential facility that the Student should remain in the facility in order to consolidate his achievements. There also was evidence available to the Regional Hearing Officer that the Student would be able to consolidate his gains in the program recommended by the Local System. The Hearing Officer, therefore, concludes that there was evidence supporting the Regional Hearing Officer's decision that the Local System could provide a free, appropriate public education in the least restrictive environment.

PART IV

RECOMMENDATION

Based upon the foregoing findings and conclusions, and the record submitted, the Hearing Officer is of the opinion that the evidence supports the decision of the Regional Hearing Officer. The Hearing Officer, therefore, recommends that the decision of the Regional Hearing Officer be sustained.

L. O. Buckland

L.O. BUCKLAND
Hearing Officer