

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: TREMAYNE B.)	
)	CASE NO. 1983-18
AND)	
)	
FULTON COUNTY BOARD)	DECISION OF
OF EDUCATION)	STATE HEARING OFFICER

This is an appeal by the parent of Tremayne B. (hereinafter "Student") from the decision of a regional hearing officer that the Fulton County School System (hereinafter "Local System") could provide the Student with a free, appropriate public education and that placement in the South Metro Psychoeducational Center was appropriate. The appeal is based upon the parent's allegations that she was not properly notified concerning the hearing before the Regional Hearing Officer, and that the Regional Hearing Officer's decision was based upon invalid tests.

The Student is twelve years old. During the spring of 1982, he was referred for special education services because of behavior problems. A placement committee meeting was held on April 14, 1982, and the committee recommended placement of the Student in a self-contained behavior disorders program. The Student's parent agreed to the placement. The Student's behavior did not improve in the program and another placement committee meeting was requested by the Local System. On September 1, 1982, the Student's parent agreed to placement of the Student in a modified behavior disorders program in another

school until more evaluations of the Student could be made. During the next two months, the Student continued to act out in class, exhibited a belligerent attitude, struck his teacher, chased another student with a pair of scissors, and was truant or otherwise missed more than one-half of his classes. In addition, the Student refused to cooperate in any psychological testing.

On October 6, 1982, another placement committee meeting was held. The committee recommended placement of the Student in the South Metro Psychoeducational Center in a self-contained behavior disorders program. The Student's parent disagreed with the placement, but did not take any further action. The Local System then requested a hearing before a regional hearing officer to determine if the placement was appropriate.

A hearing was initially scheduled for March 10, 1983, but, upon the request of the Student's parent, the hearing was postponed to April 11, 1983. The Student's parent was notified of the hearing dates. On April 11, 1983, the Student's parent did not appear for the hearing. When she was contacted by the Local System, the Student's parent stated that she chose not to attend the hearing and was going to pursue the matter in court. The Regional Hearing Officer ruled that the hearing would proceed without the Student's parent.

The Regional Hearing Officer issued his decision on April 29, 1983. The Regional Hearing Officer held that the Local System had presented sufficient evidence to show that the

Student required special education services and that placement in the South Metro Psychoeducational Center was appropriate based upon the behavior pattern exhibited by the Student while in the other programs he had been offered by the Local System. The Student's parent did not appeal the decision until June 3, 1983. The appeal was received by the State Department of Education on June 7, 1983. The appeal requests reversal of the Regional Hearing Officer's decision because the Student's parent was not represented at the hearing and was not notified of her rights, and the decision was based upon psychological reports which were of minimal interpretive value.

The Local Board has moved for dismissal of the appeal on the grounds it was made more than thirty days after the decision of the Regional Hearing Officer. The record, however, does not contain any evidence that the Student's parent was notified of the fact that failure to appeal the Regional Hearing Officer's decision within thirty days would result in the Regional Hearing Officer's decision being binding on the parties. See, Georgia Special Education State Program Plan, FY 81-83, Part VII F 2c(16). Since the Student's parent was not notified, the State Hearing Officer declines to dismiss the appeal.

The Student's parent claims that she was not aware of her rights concerning the hearing. The record, however, shows that the Student's parent was advised of her rights at each of the conferences held with her, she was aware that a hearing was

to be held, and she was aware of the fact she could be represented by counsel. The delay in the hearing was for the purpose of permitting the Student's parent to obtain counsel. The Student's parent was again notified on the morning of the hearing that it was to take place, but she elected not to attend. The Hearing Officer, therefore, concludes that the Student's parent was adequately apprised of the hearing, her right to attend, and her right to be represented by counsel.

The Student's parent also claims that the Regional Hearing Officer's decision was erroneous because it relied on admittedly incomplete testing results. The record shows that psychological testing of the Student could not be completed because the Student refused to actively participate in a meaningful manner. The observed behavior of the Student, however, shows that he requires a very structured program in an environment where he can be closely monitored. Since the initial placement of the Student in the special education program, the Local System has offered the Student a program in the least restrictive environment and has found it necessary to move on the continuum of services to a more restrictive environment to the point where the self-contained classroom at South Metro Psychoeducational Center is now required. The program at South Metro Psychoeducational Center is designed to provide the Student with the close monitoring system he requires.

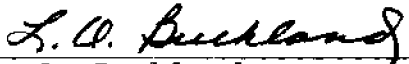
In addition to the testing results, the Regional Hearing Officer took into consideration the testimony of the Student's

teachers and the other information made available at the hearing. A placement decision cannot be made on the basis of a single factor such as the test results which were incomplete or of questionable validity because the Student would not participate in the testing process. The State Hearing Officer, therefore, concludes that there was sufficient credible evidence presented to the Regional Hearing Officer which supports the decision that the placement offered in the South Metro Psychoeducational Center self-contained behavior disorders class is an appropriate placement.

Based upon the foregoing findings and conclusions, it is decided that the decision of the Regional Hearing Officer is

AFFIRMED.

This 7th day of July, 1983.



L. O. Buckland
State Hearing Officer