

STATE BOARD OF EDUCATION

STATE OF GEORGIA

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| IN RE: TRACIE L. |) | |
| |) | CASE NO. 1983-29 |
| and |) | |
| |) | DECISION OF |
| HEARD COUNTY BOARD |) | STATE HEARING OFFICER |
| OF EDUCATION |) | |

This is an appeal by the Heard County Board of Education (hereinafter "Local Board") from a decision by a Regional Hearing Officer that the Local Board had not prepared an appropriate individualized educational program ("IEP") for Tracie L. (hereinafter "Student"), and the day training center program she was receiving was inappropriate because it did not meet her needs. The decision of the Regional Hearing Officer is sustained.

The Student is twelve years old and severely mentally retarded, blind, and has cerebral palsy. She is presently attending the Open Door Training Center, a private center for the trainable mentally retarded which receives public funding. The Training Center operates a day program, and the Student lives with her parents.

A hearing before the Regional Hearing Officer was held on June 15, 1983. The Regional Hearing Officer's decision was issued on July 18, 1983, and the Local Board filed its appeal August 12, 1983.

The Regional Hearing Officer found that the Training Center was an inappropriate placement for the Student because the Student requires training to improve language skills, eating, toileting, dressing, and requires physical therapy, occupational therapy and visual training. Except for speech therapy, the Student has received none of these services in the Training Center program. The Regional Hearing Officer also found that the Local Board failed to provide any services to the Student until the Student's parents requested a due process hearing, and that the IEP submitted at the hearing, while perhaps meeting the letter of the law, did not meet the spirit of the law. The Regional Hearing Officer decided that the Student's IEP and Training Center placement were inappropriate, and he ordered that a new and comprehensive IEP be prepared by the Student's parents and a multi-disciplinary team. The IEP had to incorporate all of the needed programs and related services identified by the Regional Hearing Officer as necessary.

The Local Board appealed on the grounds the Regional Hearing Officer erred in finding that the Student's placement and IEP were inappropriate. The Local Board also argues that the Regional Hearing Officer erred in ordering the preparation of a new IEP.

The record shows that the Student was admitted to the Open Door Training Center by her parents upon the advice of personnel of the Local Board when the parents inquired whether any programs were available in the Local School System for

mentally retarded children. The Local Board did not have the Student on any of its roles of children receiving services from the Local Board, and the Local Board did not receive any federal or state funds based upon the Student's residence in the county.

There was testimony that the Student requires a multi-disciplined approach with physical therapy, visual therapy, occupational therapy, hearing impaired treatment, and training in basic skills. None of these services are available in the Training Center, and none of them have been provided by the Local Board. During the 1982-1983 school year, the Student was evaluated at the Georgia School for the Blind and at Central State Hospital. She also received a speech evaluation. The evaluations were made for the purpose of determining if the Student should be placed in the institutions, but, in both cases, it was decided that the institutions could not provide the Student with the required services. The Local Board submitted the evaluations and the placement committee determinations prepared in connection with the evaluations as the Student's IEP. The IEP thus consisted of several independent, but related, documents which outlined needs, goals, and recommended placement.

Since there was substantial evidence in the record which shows that the Student requires a multi-disciplined teaching approach and requires services that are unavailable in the Open Door Training Center, the State Hearing Officer concludes that the evidence supports the Regional Hearing Officer's

decision that the Open Door Training Center is an inappropriate placement for the Student.

The State Hearing Officer also concludes that the documents submitted as the Student's IEP are also inadequate since they do not address the identified needs of the Student. Those services that are identified as needed, e.g., swimming, are to be provided by the Open Door Training Center, but there was no evidence that any of the services could be provided by the Open Door Training Center. The documents are internally inconsistent if viewed as a single plan. The State and federal regulations do not require a set format for the IEP document, but it should be possible to determine the needs, goals and objectives with some degree of certainty of what is involved in the proposed program.

As pointed out by the Regional Hearing Officer, the question of placement cannot be addressed until a proper IEP has been prepared.

Based upon the foregoing, the decision of the Regional Hearing Officer is

SUSTAINED.

This 16th day of September, 1983.



L. O. BUCKLAND
State Hearing Officer

[Appearances: For Local Board - Nathan G. Knight; Joseph P. MacNabb; Mathews, Knight & MacNabb, P.C.; For Parents - Richard E. Reiter; Jay W. Bouldin]