

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: OLAN H.	:	
	:	CASE NO. 1983-41
AND	:	
	:	DECISION OF STATE HEARING
COBB COUNTY BOARD OF	:	OFFICER
EDUCATION	:	

This is an appeal by the parent of Olan H. (hereinafter "Student") from a decision by a regional hearing officer that the Cobb County Public Schools (hereinafter "Local System") was not required to provide the Student with transportation to and from a school located in another city when the Student's individualized educational program ("IEP") provided for residential instruction for five days per week. The decision of the Regional Hearing Officer is hereby reversed and the Local System is directed to provide transportation.

After a hearing on October 10, 1983, the Regional Hearing Officer found that the Student, who is eleven years old, was totally blind, mildly retarded, and in need of special education and related services. The Student is currently placed in a five days per week program at the Georgia Academy for the Blind, located in Macon, Georgia, in an appropriate educational program in the least restrictive environment. The Student and his parents reside in Marietta, Georgia. The Local System agreed to provide transportation for four round trips during the year: at the beginning and end of school, at

Thanksgiving, and at Christmas. The only issue at the hearing was whether the Local System was required to provide additional transportation on the remaining weekends while school was in session.

The Regional Hearing Officer found that federal and state policy provided for only four round trips per year, and since the Local System was providing the services required by the policies, the Local System was not required to provide any additional transportation. The Regional Hearing Officer also held that since the purpose in returning the Student home on the weekends was to reinforce the family unit rather than to achieve some direct educational objective, the Local System was not required to provide transportation beyond the federal and State policies.

The federal regulations under Public Law 94-142 require a student to be placed in the least restrictive environment. In addition, a local school system is required to provide special education and related services to a handicapped child at no cost to the parents of the child. 300 C.F.R. §§300.4, 300.302. Related services includes transportation to and from school. 300 C.F.R. §300.13.

It is clear from the record that the Student's placement in the five day program was agreed upon as the least restrictive placement. The Local System did not have a program available for the Student within the county, and all parties agreed

on the placement at the Georgia Academy for the Blind. The Student's educational needs do not require him to be in residence at the Academy on weekends. During the hearing, the Local System took a reverse approach and maintained that since the Student was returning home on weekends because of a desire by the Student's parents to foster a family relationship, the Local System was not required to provide weekend transportation because the weekend trips did not accomplish an educational objective, and, therefore, were not a related service. In the hearing, the Local System also took the position that the Student could be placed into a more restrictive program, i.e., a seven days per week program, in order to avoid the problem or question of transportation.

The Local System's argument, and the decision of the Regional Hearing Officer, overlook the fact that the Student must be placed in the least restrictive program, and that the provision of special education and related services must be at no cost to the parents. Regardless of whether transportation has been identified as a related service in the Student's IEP, it necessarily is a part of the Student's program when he will be released from the Academy on a Friday and will not be readmitted until Sunday. The State Hearing Officer also does not interpret the policies referred to in the hearing as an absolute limitation on providing services. The State policy, contained in a letter dated December 20, 1979, from

the State Superintendent to local superintendents, addresses seven days per week residential programs, and not the situation found in the instant case.

It is immaterial whether the Student is being released in order to satisfy a desire on the part of the parents to maintain a family relationship with the Student. The only question that should be addressed is whether it is necessary for the Student to remain in the Academy on weekends in order to serve some educational purpose. If residential placement is not required in order to fulfill an educational purpose, then a local system is not required to provide residential placement. A local system cannot, however, demand such placement in order to avoid paying the costs of transportation when such placement is not required for educational purposes.

If the Student's IEP called for seven days per week residential placement and the student was released on weekends for the convenience or the desire of the parents, then another situation would exist. In the instant case, however, the IEP provided for a five day per week program, with no provision for any services on the weekend. The Student's parents are compelled to pick him up on Friday and return him to the Academy on Sunday afternoon. The burden on the parents in this situation exists because the Local System does not have a locally available program. Little imagination is required to determine that any program which requires the parents of

a handicapped child to drive in excess of four hundred miles each weekend will result in significant costs for the parents. It cannot be gainsaid that the Student is receiving a free appropriate public education with such a burden being imposed upon the parents.

Since the Local System is required to provide the Student with a free, appropriate public education at no expense to the Student's parents, and the Student's IEP requires only five days per week of residential placement, it is the opinion of the Hearing Officer that the Local System is required to provide transportation for the Student to and from the Georgia Academy for the Blind on weekends. The decision of the Regional Hearing Officer, therefore, is hereby reversed and it is

ORDERED, that:

1. The Local System must make arrangements for transportation from Marietta to the Georgia Academy for the Blind on Sundays, and from the Georgia Academy for the Blind to Marietta on Fridays, during each week that the school is in session and the Student is in attendance;

2. The provision of transportation services does not include any requirement on the part of the parents to drive to and from the Georgia Academy for the Blind;

3. Any arrangements made by the Local System with the Student's parents for the parents to provide transportation

must be entirely voluntary on the part of the Student's parents;  
and;

4. Implementation of a seven day per week residential program in order to avoid a transportation problem is prohibited.

This 31st day of December, 1983.

  
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L. O. BUCKLAND  
State Hearing Officer