

STATE OF GEORGIA

IN RE: STEVEN M.)
and) CASE NO. 1983-42
ATLANTA CITY BOARD OF EDUCATION) DECISION OF STATE
HEARING OFFICER)

This is an appeal by the parent of Steven M. (hereinafter "Student") from a decision by a regional hearing officer that the Atlanta City School System (hereinafter "Local System") could provide the Student with a free, appropriate public education in the least restrictive environment. The appeal is based upon the several contentions of the Student's parent, as more completely set forth below.

The Student is presently seventeen years of age and is enrolled in a private residential facility. The Local System proposed placement of the Student in a self-contained learning disabilities-behavioral disordered classroom. The Student's parent participated in the preparation of the Student's individualized educational program ("IEP") and agreed with the goals and objectives developed, but disagreed with the proposed placement. Hearings were conducted before the Regional Hearing Officer upon application of the Student's parent. The Regional Hearing Officer found that the Local System could provide a program which would meet the needs of the Student.

The first objection of the Student's parent is that her rights were violated because the Local System permitted the Student's prospective teachers to review his records prior to the Student's placement being finalized. Because the placement was not finalized, the Student's parent maintains that the teachers did not have a need to know, and, therefore, were not entitled to review any information concerning the Student. The Student's parent did not raise this issue before the Regional Hearing Officer, and does not cite any authority for the contentions raised. The teachers were involved in preparing the details of the program to be presented to the Student under the goals and objectives established in his IEP. The State Hearing Officer, therefore, concludes that, in the absence of any other showing by the Student's parent, the rights of the Student and the parent were not violated by permitting the teachers to have access to sufficient information to permit them to prepare a course outline for the Student.

The second error raised by the Student's parent was that the Student would be exposed to inappropriate role models, possible physical danger, and certain emotional trauma because the proposed class contained some behaviorally disordered students. The record, however, shows that none of the students in the class exhibit any acting out behavior in the class. The existing students do not, therefore, present inappropriate role models or pose any physical danger for the Student. The record also does not contain any evidence that the Student will suffer certain emotional trauma by being placed in the class.

The Student's parent claims, as a third basis for reversal, that the psychological report prepared by the Local System's psychologist was in error, contained deficiencies, and evidenced a lack of familiarity with the Student's records. The Regional Hearing Officer found that the evaluation was appropriately made, and a review of the record shows there is evidence to support the Regional Hearing Officer's finding. The psychologist was extensively questioned by the Regional Hearing Officer concerning the testing results and another psychologist, who acted as an advocate, conducted a thorough cross-examination. The State Hearing Officer, therefore, concludes that the record supports the finding made by the Regional Hearing Officer.

As a fourth error, the Student's parent maintains that the Regional Hearing Officer erroneously interpreted and misapplied the testimony of the psychologist called as a witness by the Student's parent. Based upon a review of the record and the Regional Hearing Officer's decision, the State Hearing Officer does not find any basis for claiming reversible error.

The Student's parent's fifth objection is that the Local System's recommendations were based upon incomplete information concerning the Student. As previously stated above, however, the record supports the Regional Hearing Officer's finding that the evaluations of the Student were appropriate. The State Hearing Officer, therefore, does not find any basis for reversal based upon the insufficiency of information available to the Local System.

The Student's parent maintains that, since the Student is identified as learning disabled, he cannot also be served by a teacher who has a provisional certification in behavior disorders. The Regional Hearing Officer found that the proposed class of eight students is taught by two teachers, one with a learning disabilities certification, and the other with a provisional certification in behavior disorders. The Regional Hearing Officer also found that the teachers were competent to provide the necessary program for the Student. There was evidence presented that the teaching techniques for learning disabled children and behavior disordered children are frequently similar because the children will exhibit both exceptionalities. The Student's parent fails to point to any rule or regulation which says that a learning disabled child cannot be served by two teachers who have certifications in two areas. The State Hearing Officer, therefore, concludes that no error has been shown.

The Student's parent complains that the support services needed to implement the Student's IEP are not located at the school. This issue was not raised at the hearing, but the record shows that these services are available when needed, and the Student's IEP does not require the services to be present at all times. The State Hearing Officer, therefore, does not find any error in the fact that the support services are available whenever they are needed.

The Student's parent also complains that the program was identified as a self-contained delivery model, but the students

are permitted to be mainstreamed into at least one class per day. The State Hearing Officer does not find any error in this contention.

As a ninth ground for reversal, the Student's parent complains that the placement committee meeting was improperly conducted. Since the question of the Student's placement was the reason for conducting a hearing before the Regional Hearing Officer, the State Hearing Officer concludes that any objections concerning the placement decision are subsumed in the Regional Hearing Officer's decision and are not properly raised on appeal.

The final objection raised on appeal is that the Student is not being placed into the least restrictive environment because he needs to be in a residential setting in order to function. The Regional Hearing Officer found that the program proposed by the Local System would provide the Student with an appropriate program in the least restrictive setting. The State Hearing Officer concludes, based upon a review of the record, that the record supports the decision of the Regional Hearing Officer and the program proposed by the Local System will provide the Student with the least restrictive environment, consistent with the intent of Public Law 94-142. The educational program offered by the Local System is substantially the same as that offered by the residential school. There was no evidence the Student has to be kept isolated from non-handicapped children in order to make educational progress. The fact that the Student has made progress in the residential school does not establish that he will be unable to make progress in a program

which will permit him to associate with non-handicapped children, be with his family, and participate in activities in the community which he will join very shortly.

Based upon the foregoing findings and conclusions, the State Hearing Officer is of the opinion that the record supports the decision of the Regional Hearing Officer. The decision of the Regional Hearing Officer, is, therefore,

SUSTAINED.

This 17th day of January, 1984.



L. O. BUCKLAND
State Hearing Officer