

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: CURTIS H.	)	
	)	CASE NO. 1984-10
and	)	
	)	DECISION OF STATE
ATLANTA CITY	)	HEARING OFFICER
BOARD OF EDUCATION	)	

This is an appeal by the parents of Curtis H. (hereinafter "Student") from a decision by a regional hearing officer allowing the Atlanta City School System (hereinafter "Local System") to evaluate Student over the objection of the parents. The appeal is based upon the several contentions of the Student's parents, as more completely set forth below.

The Student entered the Local System for the first time in September of 1983. The Student had not previously been entered in any formal school setting. He was placed in the first grade at the request of the parents even though he had not experienced kindergarten.

As the school year progressed, personnel in the Local System became concerned because they perceived the Student as having problems in the areas of learning, social adjustment, and speech. The Student was then placed in kindergarten for a half day and first grade for a half day. The Local System also tried to work with the mother of the Student through a homework program. In spite of these adjustments, the Local System personnel continued to perceive the Student as having problems. The Local System then referred the Student for evaluation under the Education for

All Handicapped Children Act of 1975 (hereinafter "Act"). In accordance with the requirements of the Act, the Local System requested the consent of the parents prior to evaluating the Student. The parents refused to grant consent and the Local System requested a hearing to allow them to evaluate the Student.

The hearing began on June 6, 1984 but was postponed by the Regional Hearing Officer to June 10, 1984 to clear up certain procedural matters with which the Regional Hearing Officer was concerned. The Regional Hearing Officer issued a decision June 29, 1984 granting the Local System's request to evaluate the child. The decision stated:

The learner should be evaluated in accord with Reg. 300.352. The evaluation should focus on:

1. all suspected disabilities noted, i.e. emotional stress, learning deficits and speech impairment; and
2. the impact of the emotional climate created by home-school conflict on the learner's stress and learning behavior.

The parents appeal the decision of the Regional Hearing Officer on the grounds the decision was not substantiated by the evidence and the testing evaluation ordered is against their religious beliefs and practices in violation of their constitutional rights. In filing this appeal, the parents have requested that they be granted:

1. an opportunity to supplement the record;
2. a new hearing;

3. oral argument on the state level;
4. a written argument on the state level, and
5. an extension of the period set for final decision on the state level.

A review of the record in this case shows that it is one in which the parents are concerned with the possible labeling of the Student as handicapped and with the implications labeling might have for the Student in the future. This is a valid concern and one of the primary reasons the Act was passed. However, the Local System is faced with the requirement of identifying children with handicaps and with providing them with an appropriate education. In the final analysis, the primary concern is with the welfare of the Student.

The first issue to be decided on appeal is whether there is substantial evidence in the record to support the decision of the Regional Hearing Officer that the Student should be evaluated. The evidence in the record supports the conclusion that the Student suffered emotional stress. Additionally, Student's teachers testified that the Student had academic problems which were not normal for a student of his age, and that he had a speech deficiency. The parent's contended that the real cause of the Student's problems was the poor relationship between the parent and the Student's teacher. However, even if that was a factor causing the Student's problems, it does not obviate the need to evaluate the Student. The evidence that the Student failed sequencing, scored below critical on his prereading test, had problems blending

sounds, had trouble identifying and understanding the value of money, often urinated and sometimes defecated in his clothes, and had trouble eating was substantial enough to support the decision of the Regional Hearing Officer.

The second issue to be decided on appeal is the strength of the parent's contention that the Regional Hearing Officer's decision ordering testing violates their constitutional rights to freedom of religion. The record contains no showing of how an evaluation would violate their rights. The record shows that parents are Jehovah's Witnesses, but does not show how the required evaluation in any way conflicts with their beliefs. The brief on appeal filed on behalf of the parents sheds no further light on this argument. The State Hearing Officer, therefore, finds no merit in this contention.

The final matters to be considered are the parent's requests to supplement the record, have a new hearing, provide oral argument on the state level, provide a written argument on the state level, and to receive an extension on the period set for final decision. The State Hearing Officer accepted the written brief of the parents and took into consideration the arguments presented in reaching the decision set forth herein. However, in light of the importance of carrying out the timelines provided for in the Act, the weight of the evidence presented at the hearing, and the extreme precautions taken by the Regional Hearing Officer in the hearing (specifically delaying the hearing to insure the parents ample opportunity to prepare and to insure that all due

process requirements were met), the State Hearing Officer is of the opinion that granting any of the steps requested would not result in a different outcome. Thus, all requests for additional relief are specifically denied except the request to submit written argument on the state level which has already been granted.

The decision of the Regional Hearing Officer authorizes the Local System to evaluate the Student within the meaning of the Act, including a speech/language evaluation and a psychological evaluation. This does not necessarily mean the Student will be found to have a handicapping condition. That will be determined based upon the results of the evaluation. If the Student is determined to have a handicapping condition, the Local System is responsible for providing an appropriate education. It is especially important, while the student is at a young age, to make the determination of whether a handicapping condition exists.

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 24<sup>th</sup> day of August, 1984.

*L. O. Buckland*  
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L. O. BUCKLAND  
State Hearing Officer