

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>JULY 0.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	<b>CASE NO. 1988-44</b>
<b>v.</b>	:	
	:	<b>DECISION</b>
<b>DEKALB COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	

The parent of July O. (“Student”) appealed a regional hearing officer’s grant of the DeKalb County Board of Education’s (“LEA”) motion for a continuance of a due process hearing. The LEA made a motion to continue the hearing until the Student completed a speech and language evaluation and a comprehensive behavior disorder evaluation. The Regional Hearing Officer granted the motion based upon the parties’ compliance with specific dates. The appeal is dismissed since the decision is not a final decision.

On August 23, 1988, the Student’s parent requested a due process hearing under the provisions of the Education for All Handicapped Children Act, 20 U.S.C. § 1401 et. seq. The due process hearing was scheduled to begin on September 29, 1988. On September 12, 1988, the Regional Hearing Officer conducted a pre-hearing conference to dispose of any motions and to determine the issues involved in the hearing. The LEA moved to continue the hearing for no more than thirty days on the ground that the Student’s parent had requested a speech and language evaluation and a behavior disorders evaluation, but the Student’s parent did not want to have the evaluations until after the Student had an operation on her ear. The Regional Hearing Officer granted the motion on September 28, 1988, but ordered that the LEA was to conduct the evaluations within “5 to 7 days after the child is physically able to be evaluated”, based upon notice from the parent’s counsel that the child could be evaluated after the operation. The

Regional Hearing Officer also ordered that the committee charged with the responsibility of preparing the Student's individualized educational plan ("IEP") "shall reconvene [within 5 to 7 days after the availability of the evaluation reports] to consider the reports and the impact of those reports on the child's educational placement and the provision of related services to the child." Under the guides issued by the Regional Hearing Officer, the due process hearing was continued for a period not to exceed thirty days.

The Student's parent mailed an appeal from the Regional Hearing Officer's order on October 8, 1988. Apparently, the basis for the appeal is that the Regional Hearing Officer will be unable to issue a decision within forty-five days after the request for a hearing because of the continuance; thus, the Student's due process rights will be violated. The Student's parent also argues that the procedures of the Georgia Department of Education are invalid because of a superior court decision. See, Kitchens v. State Dept. of Educ., Civil No. D-54773 (Fulton Super. Ct., Jul. 29, 1988).

The Georgia Department of Education Regulations and Procedures provide that the "final" decision of a regional hearing officer can be appealed for review by the state hearing officer. Ga. Dept. of Educ. Req. and Proc. IDDFd3-3 1. The Student's parent has not presented any argument why the Regional Hearing Officer's decision should be considered to be a final decision. If any error has been committed by the Regional Hearing Officer, then it can still be raised when a final decision is reached in this case. The Regional Hearing Officer's decision is merely procedural and does not affect any substantive rights of the Student. The attack on the validity of the Georgia Department of Education regulations and procedures is also premature. An appeal at this stage of the process does nothing more than delay the proceedings, which is what the Student's parent is attempting to avoid.

Since there does not appear to be any valid basis for this appeal, the appeal is

DISMISSED.

This 25th day of October, 1988.

L. O. Buckland  
State Hearing Officer