

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: ROBERT N.

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:

CASE NO. 1980-9

O R D E R


THE STATE BOARD OF EDUCATION, after due consideration of the record submitted herein and the report of the Hearing Officer, a copy of which is attached hereto, and after a vote in open meeting,

DETERMINES AND ORDERS, that the Findings of Fact and Conclusions of Law of the Hearing Officer are made the Findings of Fact and Conclusions of Law of the State Board of Education and by reference are incorporated herein, and

DETERMINES AND ORDERS, that the decision of the Fulton County Board of Education herein appealed from is hereby affirmed.

Messrs. McClung and Foster were not present.

This 8th day of May, 1980.


THOMAS K. VANN, JR.
Vice Chairman for Appeals

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: ROBERT N.	:	CASE NO. 1980-9
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	:	
	:	REPORT OF
	:	HEARING OFFICER
	:	

PART I

SUMMARY OF APPEAL

This is an appeal by the parents of Robert N. (hereinafter referred to as "the Student") from a decision of the Fulton County Board of Education (hereinafter referred to as "Local Board") adopting the findings and recommendation of a regional hearing officer that the educational program proposed by the Fulton County School System (hereinafter referred to as "Local System") could provide an appropriate education for the Student. The appeal was made on the grounds the regional hearing officer did not consider the needs of the Student; did not make any findings whether the Student required residential placement, and improperly decided the question of what constituted the least restrictive environment. The Hearing Officer recommends that the decision of the Local Board be sustained.

PART I C
FINDINGS OF FACT

Until March, 1978, the Student had been enrolled in various private schools. In each school, he experienced behavior problems. He was expelled from the last school because of possession of "unauthorized, non-prescribed drug capsules." He was then enrolled in the public school system where he was placed in a regular high school program which provided one hour per day with a learning disabilities teacher. During the period of his enrollment in the public school system, he received numerous detentions for behavioral problems. The Student's parents worked with the learning disabilities teacher in an attempt to determine the Student's problems. They also had the Student evaluated by private psychiatrists and psychologists who recommended the Student be placed into a residential facility. On June 6, 1979, the parents enrolled the Student in a private residential facility. In September, 1979, the parents requested a staffing to determine that the private residential facility was an appropriate placement for the Student. The staffing was held on January 8, 1980 and the placement committee recommended that the Student could be served in a new program developed by the Local System. The parents disagreed with the

placement committee's recommendation and requested a hearing. The hearing before a regional hearing officer occurred on February 22, 25, and 26, 1980.

Neither the parents nor the Local System were represented by counsel, but the testimony presented at the hearing explored the private residential program and the program offered by the Local System in depth. Both parties presented testimony that the Student required a structured program in order to deal with his learning disabilities and his behavioral disabilities. The principal differences between the private residential program and the Local System program were that the residential program provided minimal vocational education while the Local System program emphasized education, and the residential program provided for 24-hour care while the Local System provided only day treatment.

The regional hearing officer found that the program offered by the Local System provided an appropriate education for the Student and constituted the least restrictive environment. The Local Board adopted the findings of the regional hearing officer on March 11, 1980. An appeal was then made by the parents to the State Board of Education on March 24, 1980.

PART III

CONCLUSIONS OF LAW

The appeal by the parents claims: (1) the hearing officer did not consider the needs of the Student; (2) the hearing officer did not make any finding whether the Student required residential placement; and (3) the hearing officer prematurely and improperly decided that the local program constituted the least restrictive environment. In the opinion of the Hearing Officer, the appeal does not present any error of law on the part of the regional hearing officer.

Implicit in the recommendation of the regional hearing officer are the findings that the Student required a very structured program, the Student could receive educational training in the program offered by the Local System, the program constituted the least restrictive environment, and residential placement was not the most appropriate placement. There is nothing in the record to indicate that the regional hearing officer failed to take the Student's needs into consideration and after three days of hearing testimony from both parties regarding the needs of the Student, it is difficult to imagine that the regional hearing officer did not take the Student's needs into consideration. The testimony presented by the parties was conflicting

on the need for residential treatment and it was the duty of the regional hearing officer to weigh that evidence. There is evidence contained in the record that the program offered by the Local System was appropriate. The State Board of Education follows the rule that if there is any evidence to support the decision of a local board of education, the decision will not be disturbed upon review. Antone v. Green Co. Bd. of Ed., Case no. 1976-11. The Hearing Officer, therefore, concludes that the evidence supports the regional hearing officer's determination that the program offered by the Local System was appropriate.

Public Law 94-142, and the regulations promulgated thereunder, require that a student be educated in the "least restrictive environment." It is, therefore, incumbent upon a hearing officer to consider the least restrictive environment when making a recommendation. It was not improper for the regional hearing officer in the instant case to make a determination that the program offered by the Local System constituted the least restrictive environment. The Hearing Officer, therefore, concludes that the regional hearing officer properly decided the issue of what constituted the least restrictive environment and her decision does not provide a basis for appeal.

PART IV
RECOMMENDATION

Based upon the foregoing findings and conclusions and the record submitted, the Hearing Officer is of the opinion that the educational program offered by the Local System was appropriate for the Student. The Hearing Officer, therefore, recommends that the decision of the Fulton County Board of Education be sustained.



L. O. BUCKLAND
Hearing Officer