

STATE BOARD OF EDUCATION

STATE OF GEORGIA

IN RE: KIMBERLY D.	)	
	)	CASE NO. 1983-22
AND	)	
	)	
MUSCOGEE COUNTY BOARD	)	DECISION OF STATE
OF EDUCATION	)	HEARING OFFICER

This is an appeal by the parents of Kimberly D. (hereinafter "Student") from the decision of a regional hearing officer that the Muscogee County School System (hereinafter "Local System") was no longer responsible for providing special education services to the Student because the Student is twenty-two years of age. The appeal was made on the grounds the Local System failed to provide the Student with an appropriate education and is therefore required to provide the Student with compensatory education services notwithstanding the fact the Student is twenty-two years of age.

The Student is mentally handicapped and has been receiving special education services from the Local System for several years. This appeal arises from the decision of a regional hearing officer following a due process hearing held on May 6 and 9, 1983. The Student's parents requested the hearing because of their contention the Local System was not providing the Student with the vocational services mandated in a due process hearing held in the prior year.

On May 18, 1982, a due process hearing had been held to consider the Student's placement and the provision of vocational education services. The regional hearing officer held, on June 6, 1982, that the Local System had not provided the Student with effective vocational services. The regional hearing officer acknowledged that the Local System was not obligated to provide the Student with services after she reached twenty-two years of age. The hearing officer then stated:

[I]f the LEA, at its option, chooses to offer an educational program for one more year for this student, a new IEP should be drafted which would incorporate a combination social/life skills class ... with the RVIP program at one of the locations within the home county. The emphasis of such a program should be a carefully planned effort to coordinate classroom learning with vocational skills. For example, individualized attention in the areas of supervisory and co-worker interrelationships, management responsibilities, simple data processing, etc., combined with the RVI program could be a meaningful experience.

The Local System offered to provide the Student with an additional year of educational services. On August 23, 1983, a placement committee meeting was convened to draft an individualized educational program for the Student for the 1982-1983 school year and a decision was made to provide the Student with vocational training in the health care field. On September 3, 1982, the Student became twenty-two years of age.

It became apparent that the health care field was unsuitable for the Student and she was transferred to the child care class at the end of the first six-week period. This class was

provided on three days per week for two hours per day. In addition to the child care class, the Student was provided with home economics, arithmetic, and family management classes. Meetings were held approximately every six weeks between the Student's parents and teachers to discuss the Student's progress. During these meetings, the Student's parents expressed dissatisfaction with the level of services provided to the Student. On April 8, 1983, the Student's parents requested a due process hearing on whether the Local System was providing the Student with the level of services set forth in the June, 1982, regional hearing officer's decision.

On June 2, 1983, the Regional Hearing Officer issued her decision that, since the Student was twenty-two years of age, the Local System was no longer responsible for providing any services to her. The Regional Hearing Officer also decided that the Local System had made a good faith effort to provide the Student with the vocational services recommended in the previous decision of June, 1982. A timely appeal was made to the State.

In addition to the Student's parents' contention that the Regional Hearing Officer erroneously decided the Local System was no longer responsible for providing services to the Student, the parents maintain on appeal that the Regional Hearing Officer denied them due process because the decision was based upon an unofficial record of the hearing; the Regional Hearing Officer improperly denied them the right to be accompanied and advised by an expert consultant; the Regional Hearing Officer improperly

permitted the Local System to change the Student's placement during the pendency of the proceedings by holding that graduation constituted termination of services rather than a change in placement; the Regional Hearing Officer improperly shifted the burden of proof to the parents, and the decision was not supported by substantial evidence.

The Student's parents maintain that, under the holding in Campbell v. Talladega County Bd. of Ed., 518 F. Supp. 47 (N.D. Ala. 1981), which held that a local system had to provide the plaintiff with a free appropriate public education for two years past his twenty-first birthday, the Local System must provide the Student with compensatory vocational education services because the Local System failed to provide the services required by the 1982 regional hearing officer's decision. In the Campbell case, however, the district court found that the local educational agency had failed to provide a program which was even minimally appropriate for the handicapped child. The Regional Hearing Officer, in the instant case, found that the Local System had provided the Student with vocational services which were appropriate. Additionally, the services provided during the 1982-1983 school year were voluntarily provided by the Local System since the June, 1982, decision held that the Local System was not required to provide additional services after the Student reached twenty-two years of age.

The record shows that the Local System attempted to place the Student into a program that would fit her needs for vocational instruction, her instruction was individualized, attempts

were made to accommodate the desires of the Student's parents, and the Student made progress in the vocational training. The Local System was not under any obligation to provide the services during the 1982-1983 school year. The June, 1982 decision did not, contrary to the contentions of the Student's parents, require the Student to be given one-to-one instruction. The vocational instruction was to be individualized, and the record shows that the teachers adjusted their instruction for the Student and took her needs and abilities into consideration when assigning her tasks. The State Hearing Officer concludes that the record supports the decision of the Regional Hearing Officer that the Local System provided the Student with an appropriate program. The rationale of the Campbell decision is, therefore, not applicable in the instant case.

The Education for All Handicapped Children Act, P.L. 94-142, 20 U.S.C. 1401 et. seq., applies only for children under twenty-two years of age. Since the Student has reached twenty-two years of age, the Local System is not, and was not, under any obligation to supply services to the Student. This is the same decision reached by the regional hearing officer in June, 1982. Because of this decision, the remaining contentions of the Student's parents do not need to be addressed. The decision of the Regional Hearing Officer is, therefore,

AFIRMED.

This 30<sup>th</sup> day of July, 1983.

  
L. O. BUCKLAND