THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion from
the School District of Three Lakes of
KELLY B[redacted],

FINAL
ORDER

Appellant.

THE NATURE OF THE CASE

This is an appeal to the State Superintendent of Public Instruction, pursuant to sec. 120.13(1)(c), Wis. Stats., from an expulsion decision of the Board of Education (hereinafter Board) of the School District of Three Lakes (hereinafter Respondent) on April 13, 1982, expelling Kelly B[redacted] (hereinafter Appellant) permanently from Respondent's high school. Now having reviewed all matters of record, the State Superintendent makes the following:

FINDINGS OF FACT

Facts appearing of record insofar as relevant to the instant order are as follows:

At the time of the expulsion Appellant was a 16 year old student enrolled in Respondent's high school. Appellant admitted at her expulsion hearing, held by the Board after due notice on April 13, 1982, to both giving marijuana to another student and smoking marijuana at school during the noon hour. Appellant admitted at the hearing that she purchased the marijuana which she gave to another student from a student supplier in the downtown Three Lakes area.[1] There was also discussion

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1. Appellant is correct in asserting in the Notice of Appeal that Appellant possessed marijuana in the downtown area, but is incorrect in

by Appellant and the school superintendent at the expulsion hearing of an incident occurring in January of 1982, where Appellant was admittedly found to have been in possession of marijuana on the high school premises.[2]

CONCLUSIONS OF LAW

Transferring of marijuana to other students and smoking of marijuana in Respondent's high school, cannot be condoned by school authorities. The former is conduct which endangered the health and safety of others. This, coupled with the latter offense, also satisfies the statutory standards of repeated violation of school rules.

The expulsion of Appellant on its merits for some appreciable period of time was reasonable and justified under sec. 120.13(1)(c), Wis. Stats., and must be affirmed.

Appellant's main contention in this appeal is that the period assessed by the Board for the expulsion is excessive and unduly harsh. In light of the dicta contained in Racine Unified School District et al. v. Barbara Thompson, State Superintendent of Public Instruction, (1982) 107 Wis. 2d 657, 321 N.W. 2d 334, I must conclude that I am foreclosed from exercising my discretion in this regard. In Racine, the Court of Appeals District II observed, in effect, that my discretion in appeals under sec. 120.13(1)(c), Wis. Stats., is limited to determining whether the district complied with the express procedural requisites of that statute and whether skeletal due

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1. (continued from page 1) its assertion that she was expelled for such possession. The record, including the Board's minutes of its hearing dispells any doubt that there was sufficient evidence of reasonable probative evidence to support the charges contained in the Board's Notice. (Racine v. Thompson, Court of Appeals, District II, Case No. 80-2202, Decision issued May 19, 1982.)

2. Because this incident was not included in the Notice it could not be considered in determining the merits of the expulsion, however, it could be considered by the Board in determining whether the interest of the school demanded her expulsion.

process was accorded to the student facing expulsion. Having resolved these questions in the affirmative I have no choice but to accept the period of expulsion ordered by the school board.

BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: So ordered.

Dated and mailed this 23rd day of August, 1982.

Herbert J. Grover
State Superintendent