

State of Wisconsin

DEPARTMENT OF PUBLIC INSTRUCTION

Barbara Thompson, Ph.D.
State Superintendent

Dwight M. Stevens, Ph.D.
Deputy State Superintendent

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of an Appeal Filed with the State Superintendent of Public Instruction dated May 15, 1977, from Mrs. Betty O [REDACTED], mother of Harold M [REDACTED], Appealing the Decision made by the School Board of the Wisconsin Rapids School District, on April 28, 1977, to Expel her son, Harold M [REDACTED] from the Wisconsin Rapids, Mead School.

DECISION
AND
ORDER

The facts related to the above entitled appeal were determined by the State Superintendent of Public Instruction at a hearing held at the State Superintendent's direction by Roger Sunby, Administrative Consultant, Department of Public Instruction and Mary Fraser, Assistant Legal Counsel, Department of Public Instruction, commencing at approximately 2:36 p.m. on June 29, 1977, at the District Office of the Wisconsin Rapids School District, Wisconsin Rapids, Wisconsin. Harold M [REDACTED] and Mrs. Betty O [REDACTED], his mother, appeared in person and by their attorney, Eric K. Pierson, and Attorney Kenneth Hill appeared for the Wisconsin Rapids School District. The State Superintendent, after consideration of all the testimony and the entire record and being fully advised in the matter, makes the following findings and order.

Findings

That Harold M [REDACTED], a 14 year old seventh grade student at Mead School, was expelled by the Wisconsin Rapids School Board for the remainder of the school year, after a hearing held on April 27, 1977. Harold was expelled for [repeated violations of school rules, and for conduct which endangered the health and safety of others including: disruptions of his classrooms, the playground and hallways, fighting, name-calling, attacking younger students, and leaving school without permission.]

That Harold substantially admitted that most of these incidents documented by the faculty and administration did occur, but his version of the events varied significantly from that of the faculty and administration.

That based on the testimony presented by Harold, the faculty and the administration, Harold did engage in repeated violations of school rules and conduct which endangered the health and safety of others, and his claims that he doesn't "beat up on little kids", seldom gets in fights, and is protecting his younger brothers, are not credible.

That Mrs. O [REDACTED] encourages her children to stick together when in school and on the playground, to stick up for each other, to leave school and go home if they feel threatened or sense violence, that other children perceive Harold M [REDACTED] and his brothers to be a "gang", that Harold, alone and in conjunction with his brothers, physically attacked younger children and alone and in conjunction with his brothers engaged in conduct calculated to instill fear in other children and the faculty.

That Harold's claim that he is being punished for "guilt by association" because his three younger brothers are always in trouble, and because he hangs around with them and with kids who are low achievers, is contradicted by the record, including Harold's own testimony.

That Harold's own testimony refuted his claim that he was punished more severely than others for the same misdeed.

That Mrs. O [REDACTED] on the advice of her attorney, had agreed prior to the instigation of the expulsion proceedings to a recommendation that each of her four sons, including Harold, attend separate schools, with Mrs. O [REDACTED] being reimbursed by the district for transporting her sons to these schools.

That the above recommendation was made in the belief that Harold would substantially modify his behavior in the absence of his brothers, and was based on the observation that when Harold was not with his brothers, as was the case in his classroom, he had relatively few difficulties with his behavior.

That Mrs. O [REDACTED] changed her mind and refused to send her sons, including Harold, to their new school assignments.

That as a result of Mrs. O [REDACTED]'s failure to cooperate with the school in achieving a satisfactory solution to Harold's behavior problem, combined with the dangerous nature of Harold's repeated misconduct on the playground and in the hallways, the administration felt that they were left with no alternative but to expel Harold.

That the expulsion appeal hearing conducted on June 29, 1977, was a hearing on the merits of the expulsion, and the test to be applied was whether there was substantial evidence to support the school board's decision.

That the petitioner's claim of denial of due process by the school board at the expulsion hearing presents a question that the Superintendent of Public Instruction has no jurisdiction to decide.

That even if such a denial of due process occurred, it was cured by the appeal hearing, de novo, at which time Harold had the same opportunity to make his case, with the assistance of his attorney, which he claims was denied him at the school board hearing.

Conclusions

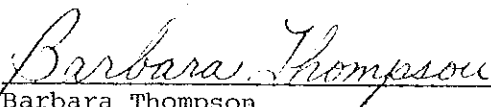
Harold has engaged in repeated violations of school rules and his behavior has been disruptive of the educational environment of Mead School, as well as dangerous to the health and safety of others.

That the expulsion of Harold, on its merits, was justified under Section 120.13 (1) (c), Wis. Stats.

IT IS HEREBY ORDERED That the expulsion of Harold M [REDACTED] from Mead School for the remainder of the 1976-1977 school year is affirmed, and that he is to be reinstated as a student in the Wisconsin Rapids School District at the beginning of the 1977-1978 school year.

That although the expulsion of Harold is hereby affirmed, it is recognized that his education continues to be a responsibility of the Wisconsin Rapids School District, his parents, Harold and the State of Wisconsin. Therefore, it is recommended that Harold, his parents and the Wisconsin Rapids School District actively pursue a course of cooperation in pursuing an educational program for Harold that will assist him in developing improved behavioral patterns in the classroom, hallways and playground, and that this be done prior to the beginning of the 1977-1978 school year, so that Harold is given the opportunity to perform in an educational milieu in which he can and will perform well academically and behave in a manner commensurate with his age and abilities.

Dated this 27th day of July, 1977.


Barbara Thompson
State Superintendent