

State of Wisconsin

DEPARTMENT OF PUBLIC INSTRUCTION

Barbara Thompson, Ph.D.  
State Superintendent

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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 James M [REDACTED], Appealing the Decision made by the School Board of the Wisconsin Rapids School District, on April 28, 1977, to Expel her son, James 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 1:44 p.m. on June 29, 1977, at the District Office of the Wisconsin Rapids School District, Wisconsin Rapids, Wisconsin. James 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 James M [REDACTED], a 12 year old, fifth 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. James was expelled for repeated violations of school rules, and for conduct which endangered the health and safety of others including: disruptive behavior in the classrooms, playground and hallways, name-calling, harassment of other students, tardiness and fighting.

That James denies several of the incidents documented by his teachers and the administration, but claims to have no recollection of all the others listed in the list of specific incidents.

That considering James' demeanor, as well as the testimony presented by James, the faculty and the administration, James' claims that he does not fight with other students, that it is his brothers who do so, that it is the other students who pick on him and that he does not harass the other students, and that he has no recollection of the incidents documented in the record, are not credible, and that he did in fact engage in repeated violations of school rules, and conduct which endangered the health and safety of others.

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 James and his brothers do in fact stick together and in conjunction with his brothers, James engages in conduct calculated to instill fear in other children and the faculty.

That Mrs. O [REDACTED] consented to a multidisciplinary team (M-team) evaluation for James during the 1976-1977 school year, which resulted in the conclusion that James had no exceptional educational needs, and a recommendation that James, and each of his three brothers 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 James would not engage in this behavior if his brothers were not around to encourage and reinforce his conduct.

That Mrs. O [REDACTED] initially agreed to this arrangement, on the advice of her legal counsel, but later changed her mind and refused to send her sons, including James, 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 James' behavior problem, along with James' continued disruptive and dangerous behavior, and his teachers' claims that it was impossible to maintain their classrooms and create an appropriate educational atmosphere for the other children when James was present, the administration felt that they had no alternative but to request the school board to expel James for the remainder of the year.

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 James 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

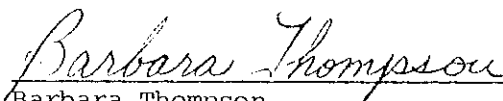
James has engaged in repeated violations of school rules and his behavior has been disruptive of the educational environment of Mead School, as well as dangerous to the health and safety of others.

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

IT IS HEREBY ORDERED That the expulsion of James 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 James is hereby affirmed, it is recognized that his education continues to be a responsibility of the Wisconsin Rapids School District, his parents, James and the State of Wisconsin. Therefore, it is recommended that James, his parents and the Wisconsin Rapids School District actively pursue a course of cooperation in pursuing an educational program for James 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 James will start the new school year with every opportunity for success in the classroom.

Dated this 27th Day of July, 1977.



Barbara Thompson  
State Superintendent