



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 John M [REDACTED], Appealing the Decision made by the School Board of the Wisconsin Rapids School District, on April 28, 1977, to Expel her son, John 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 1:15 p.m. on June 29, 1977, at the District Office of the Wisconsin Rapids School District, Wisconsin Rapids, Wisconsin. John 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.

That John 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. John 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, intimidating other students, harassing maintenance workers on a scaffold, throwing snowballs at others, and tardiness.

That John has substantially admitted several of the incidents documented by the faculty and administration, but claimed to have no recollection of most of the incidents, and also claimed not to be responsible for starting the disturbances.

That considering John's demeanor, as well as the testimony presented by John, the faculty and the administration, John's claims of no responsibility and no recollection 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 John and his brothers do in fact stick together, and that in conjunction with his brothers, John instigates fights with others and 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 John during the 1976-1977 school year, which resulted in the conclusion that John had no exceptional educational needs, and a recommendation that John, 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 recommendation above was made in the belief that John would not engage in this sort of behavior if his brothers were not around to encourage and reinforce him.

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 John, 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 John's behavior problem, along with John's 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 John was present, the administration felt that they had no alternative but to request the school board to expel John 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 John 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

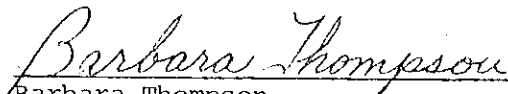
John has engaged in repeated violations of school rules and his behavior has been disruptive of the educational environment of Mead School, as well as dangerous to the health and safety of others.

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

IT IS HEREBY ORDERED That the expulsion of John 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 John is hereby affirmed, it is recognized that his education continues to be a responsibility of the Wisconsin Rapids School District, his parents, John and the State of Wisconsin. Therefore, it is recommended that John, his parents and the Wisconsin Rapids School District actively pursue a course of cooperation in pursuing an educational program for John 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 John 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