

STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion
of Victor B. [REDACTED] from the
Northland Pines Schools, Eagle
River, Wisconsin

OPINION
AND
ORDER

This is an appeal pursuant to Section 120.13(1)(c), Wis. Stats., from an order of the Board of Education, hereinafter Board, of the Northland Pines School District, hereinafter District, expelling appellant, a 14 year old pupil, from attendance in the schools of the District. Now having considered all matters of record, the State Superintendent of Public Instruction makes the following,

FINDINGS OF FACT

On February 20, 1979, appellant was found by the District's M-team to have [exceptional educational needs in the specific area of emotional disturbance.] Temporary placement of appellant in a recommended program was agreed to by appellant's mother pending the final M-team recommendations.

On February 26, 1979, approximately 6 days later, appellant's mother refused placement of appellant in the proposed program for the emotionally disturbed offered by the District.¹

On or after February 27, 1979, appellant dropped from the temporary program offered for his exceptional educational needs and returned to the regular school program in the District.

On March 15, 1979, appellant disrupted class and showed disrespect to staff.

On March 29, 1979, appellant used disruptive language towards teachers and was found smoking on school property.

On March 29, 1979, appellant's mother agreed that appellant should be kept at home until the "situation is clear or expulsion action could be taken."

On April 11, 1979, at an expulsion hearing held by the Board at which appellant was represented by counsel, the Board voted to "have a psychiatric evaluation of the boy conducted at Marshfield with such evaluation to be followed by appropriate actions as rapidly as possible."

On May 30, 1979, a report of that psychiatric evaluation at Marshfield Clinic strongly recommended that appellant "continue in the District's program for the emotionally disturbed."

It clearly appears from the psychiatric recommendation and from the M-team recommendations that appellant's behavior was a result of or caused by his emotional disturbance (exceptional educational need).

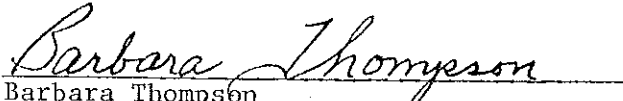
CONCLUSIONS

Appellant has engaged in repeated violations of school rules and his behavior has threatened teachers and has been disruptive of the educational environment of the District schools, for which, if such behavior were not caused by appellant's exceptional educational needs,² the Board could have expelled for some reasonable period. Even considering that the expulsion was caused by other than appellant's exceptional educational needs behavior, it is determined that sufficient time has expired from the complained misconduct to require the termination of the expulsion order.

I similarly here conclude that a pupil may not be expelled where the misconduct constituting the grounds for such expulsion is, as in the instant case, the result of the pupil's exceptional educational needs.

IT IS ORDERED That the expulsion be terminated at the beginning of the next semester of the 1979-1980 school year and that the District forthwith convene its M-team to determine an appropriate program and placement for appellant.

Dated this 7th day of January, 1980.


Barbara Thompson
State Superintendent

¹At this juncture, the District should have proceeded to recommend and provide an appropriate program for appellant's exceptional educational needs. Appellant's mother could have appealed the decision to the school board pursuant to Section 115.81, Wis. Stats. Appellant is required to comply with the compulsory school attendance law and could have been compelled to attend pending the appeal (Section 115.82, Wis. Stats.).

²Section 118.15(3)(a)3., Wis. Stats., provides that an exceptional educational needs child may not be excused for good cause when the good cause is based upon the child's exceptional educational needs.