NB: This no longer represents the dept's views 5/85

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion from Lake Geneva Schools of DAN S[redacted],

OPINION AND FINAL ORDER

Appellant.

THE NATURE OF THE CASE

This is an appeal pursuant to sec. 120.13(1)(c), Stats., of a decision of respondent's Board of Education, hereinafter the Board, to expel appellant from Badger High School in respondent school district for the remainder of the second semester of the 1979-80 school year. Now having fully reviewed all matters of record, the State Superintendent makes the following:

FINDINGS OF FACT

On March 6, 1980, [in a confrontation with a football coach in respondent's high school, appellant engaged in disruptive conduct.] Also on March 6, 1980, appellant [engaged in conduct which was disruptive and which threatened the safety of a police officer whom appellant confronted] on school premises.

CONCLUSIONS OF LAW

Appellant has engaged in violation of school rules and his behavior has been disruptive of the educational environment of respondent's schools, as well as dangerous to the health and safety of others.

The appellant challenges that the appeal be reversed because appellant, a minor, was not notified of the expulsion. Sec. 120.13(1)(c), Stats., clearly requires that where the student is a minor, that he be provided a copy of the notice of hearing. It is equally clear from the record that the notice of hearing was directly provided to his parents. However, appellant did appear with his counsel at the March 17, 1980 hearing before the Board, at which his parents, Mr. and Mrs. Chris S[redacted], also attended, and an appeal on his behalf was taken to this office by his father less than three weeks after the notice of the Board's decision. Under the circumstances, it cannot be concluded that appellant was in any way prejudiced by respondents to provide him with his own personal copy of the notice in question and the appellant has not contended otherwise. As such, respondent's omissions in this regard constitute harmless error and will not serve to invalidate his expulsion.

The appellant also challenges that the expulsion order did not contain necessary reference to sec. 120.13(1)(c), Stats., and therefore is void. The statute requires that notice of hearing, and not the expulsion order, contain a verbatim copy of sec. 120.13(1)(c), Stats. The Board's notice contained reference to sec. 120.13(1)(c), Stats., as required.

THEREFORE, the expulsion of appellant on its merits was justified under sec. 120.13(1)(c), Stats.

IT IS HEREBY ORDERED, that the expulsion of appellant from respondent's high school be affirmed and this appeal be dismissed.

Dated this 6th day of July, 1981.

Barbara Thompson
Barbara Thompson
State Superintendent