

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
Christopher K [REDACTED],

appellant,

DECISION
AND
ORDER

vs.

School District of Three Lakes,

respondent.

THE NATURE OF THE CASE

This is an appeal pursuant to sec. 120.13(1)(c), Stats., of appellant's February 5, 1981 permanent expulsion from the schools of the respondent district. Now having fully reviewed all matters of record, the State Superintendent of Public Instruction makes the following:

FINDINGS OF FACT

During the 1980-81 school year, appellant was a 9th grade student enrolled in respondent's schools. Following a number of minor disciplinary infractions, on September 18, 1980, appellant was found to have [marijuana in his possession while on school premises.] Thereupon, he was suspended from school pending a September 25, 1980 expulsion hearing before respondent's board. At the hearing, the board determined to reinstate appellant to attendance on probation which required him to comply with all school rules. However, appellant was advised that any further involvement with controlled substances on his part would result in expulsion.

Less than one month following his reinstatement, appellant was found to be smoking on school premises. Thereafter, appellant left school without

authorization on November 4, 1980 at a time when school authorities were seeking to question him regarding another student who had suffered a drug overdose. On the following day, appellant's parents returned him to school where he [admitted having given the other student several tablets of Valium.] On November 6, 1980, appellant was involved in a fight at school. At this time, school authorities found a [black jack in his possession.] Following due notice hearing, appellant was permanently expelled for the foregoing conduct.

CONCLUSION OF LAW

In considering the expulsion of a student under sec. 120.13(1)(c), Stats., a school board undertakes a two part analysis. First, the board must find on the basis of evidence presented at the hearing that the student's conduct falls within one or more of the statutory grounds for expulsion. In this particular case, the board properly concluded that the conduct found above satisfied two of the statutory grounds: (1) repeated infractions of school rules and (2) conduct endangering the health and safety of others at school.

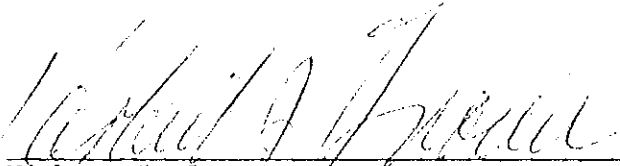
The second part of the board's deliberation addresses the question of whether or not, in view of the offenses in question, the interest of the school demands expulsion. This entails considering not only whether expulsion itself is an appropriate response for the school, but also, for how long a period the expulsion should be imposed. Appellant contends that, while expulsion itself was not unreasonable, a permanent expulsion for his conduct would be excessive.

In setting the period of expulsion, a school board must balance the school's interest in the maintenance of good order against the interest of

the student in receiving an education. Bearing in mind the state's paramount interest in universal education, a permanent expulsion can only be sustained in cases of the most aggravated and severe student misconduct. While appellant's actions as set forth above cannot be condoned, it cannot be concluded from the totality evidence of record that appellant will forever be unable to substantially comply with school rules so as to warrant his permanent removal from school. However, the misconduct in question is serious enough to warrant expulsion for more than the period served to date. Accordingly, in this office's discretion, it is determined that appellant's expulsion should continue until the conclusion of the current semester of the respondent district and shall terminate upon commencement of the second semester of the school year.

BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: So ordered.

Dated and mailed this 7th day of October, 1981.



Herbert J. Grover
State Superintendent