

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion from
the School District of Jefferson of
ERIC S [REDACTED],

OPINION AND
FINAL ORDER

Appellant.

THE NATURE OF THE CASE

This matter is before the State Superintendent of Public Instruction under sec. 120.13(1)(c), Stats., on appeal from a November 3, 1981, expulsion order of the School Board (hereinafter Board) of the School District of Jefferson (hereinafter District) expelling appellant from the schools of the District for the remainder of the 1981-82 school year, however, suspending the expulsion and permitting appellant's attendance in the District schools for the second semester of the 1981-82 school year so long as appellant does not violate school rules regarding the possession, distribution or use of illegal drugs in or around school property. Now having fully reviewed all matter of record, the State Superintendent of Public Instruction makes the following:

FINDINGS OF FACT

On October 26, 1981, appellant and his parents were sent notice that on October 22, 1981, appellant had in his [possession marijuana and smoking paraphernalia and plastic bags] which he admitted were given to a student to be used for the purpose of selling marijuana. The notice further informed appellant and his parents that appellant had sold \$4.00 worth of marijuana to a student on the way to school and that he returned to school after the

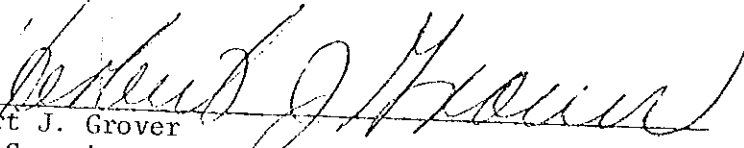
lunch hour having smoked marijuana and that appellant's expulsion from the District schools would be considered.

CONCLUSIONS OF LAW

That appellant admitted having participated in the conduct as charged, specifically having possessed marijuana and baggies at school with the intent of selling it to students. That the possession of marijuana on October 22, 1981, with admitted intent to sell to other students, along with other possessions of marijuana and paraphernalia, not denied by appellant (Transcript, page 23), threatened the health and safety of students. Under the circumstances, the interest of the school demands the expulsion of appellant for the 1981-82 school year with the option of returning at the beginning of the second semester of this year, so long as appellant does not violate school rules regarding the possession, distribution or use of illegal drugs in or around school property.¹

BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: So ordered.

Dated and mailed this 12th day of February, 1982.


Herbert J. Grover
State Superintendent of Public Instruction

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1. In affirming the expulsion of appellant, we do not comment on the return of appellant to the district schools under threat of not lifting the suspension under certain circumstances. If such conduct did occur on appellant's part, any further exclusion would need notice and action by the Board pursuant to sec. 120.13(1)(c), Stats., from which appeal could be made to this office. In this regard see Case No. 78-7904X, "The State Superintendent's Expulsion Decision Digest." (copy attached)

irreparable harm in that he continues to be without instructional services and the absence of an adequate remedy at law entitle appellant to temporary reinstatement.

Case No. 77-7803X (May 9, 1978)

B. Right to Hearing

Facts:

After due notice and hearing, the school board expelled the appellant student for some 26 infractions of school rules; however, the board suspended the expulsion and placed him on probation permitting the student to remain in school on a "last chance" basis. Two weeks later, the district administrator notified the student and his parents that he was expelled on the basis of six alleged subsequent infractions. No hearing was held as to these last six incidents.

Held: Reversed.

✓ While a school board may arguably have the power to suspend an expulsion order and, in effect, place a student on probation subject to revocation in the event of future infractions of school rules, Section 120.13(1)(c) requires that expulsion be only by board action following notice and hearing. Appellant was entitled to notice and a hearing as to the final six alleged infractions for which expulsion was ultimately imposed.

Case No. 78-7904X (April 12, 1979)