

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the Matter of the Expulsion from  
Lake Holcombe School District of  
LAUREN C [REDACTED],

OPINION  
AND  
ORDER

Appellant.  
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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 February 8, 1982 order of the School Board (hereinafter Board) of the Lake Holcombe School District (hereinafter District) expelling appellant from the schools of the District for the balance of the school year. Now having fully reviewed all matters of record, the State Superintendent of Public Instruction makes the following:

FINDINGS OF FACT

On January 30, 1982, appellant's parents received written notice that the Board would conduct a hearing on February 8, 1982 as to appellant's possible expulsion for [selling "look-alike" drugs] in school on January 28, 1982. The facts were uncontroverted that on January 28, 1982, appellant had in his possession and sold to other students a quantity of pills bearing a resemblance to a form of amphetamine known as "pink footballs." The pills found in appellant's possession were tested by the State Crime Lab and were found not to be a controlled substance in the amphetamine family, but were instead "look-alike" drugs consisting mostly of caffeine. Appel-

lant admitted having sold approximately 80 such pills at a price of 50¢ each and expressed surprise that the pills were not amphetamines. Appellant indicated that he sold them to other students under the belief they were "speed." Appellant's conduct in selling "look-alike" pills in school on January 28, 1982 endangered the health and safety of other students in the District's schools. The Board's Finding Number 8 is affirmed and adopted and is shown in its entirety as follows:

That the seriousness of the aforesaid conduct is not mitigated by the fact that the pills sold by Lauren O. [REDACTED] were "look-alikes" rather than true amphetamines, due consideration having been given to the following factors:

- a. Lauren O. [REDACTED] believed that the pills were in fact amphetamines;
- b. Various chemical analyses of similar "look-alike" drugs of this nature have been determined dangerous to the health of the user in and of themselves;
- c. A user acclimated to the effects of a "look-alike" drug might mistakenly ingest a dangerous or lethal overdose of a like quantity of the controlled substance imitated by the "look-alike" drug.

In finding that the sale of "look-alike" drugs, in this case the pink pills which appellant thought were "speed" but contained mostly caffeine, threatened the health and safety of other Lake Holcombe students, I have taken into consideration the District's Exhibit F, particularly on page 5 thereof, where in paragraphs 2 and 3 of an article entitled, "Look-Alike" Drugs Banned, it is stated:

Legislation prohibiting the sale and distribution of drugs made to look like controlled substances was enacted by the Wisconsin legislature and became law on November 28, 1981. The Justice Department Office of Consumer Protection cooperated with the bill's sponsor, Senator Gary Goyke of Oshkosh, in drafting portions of the bill which gives the Justice Department enforcement authority to prosecute firms advertising "look-alike" drugs. Office staff testified at informational hearings on the bill during its early stages.

The pills are manufactured to resemble the shapes, sizes and colors of amphetamines and other controlled drugs, although they contain caffeine and other diet or decongestant ingredients which are legal. The pills are sold in bulk to individuals who then sell them on the street individually. They are allegedly health hazards if taken in large numbers or if unknowingly a buyer purchases and takes the real drug after becoming accustomed to the effects and dosage of the "look-alike." Deaths have been attributed to the "look-alike" pills where they contain abnormally large quantities or hazardous combinations of the legal substances.

Further, in finding that the seriousness of appellant's conduct is not mitigated by the fact that the pills he sold in school were "look-alikes" rather than true amphetamines, I have duly considered that the legislature enacted Chapter 90, Laws of 1981, pages 1-3 of District's Exhibit F, regulating traffic in substances which resemble drugs and creating a penalty, after listening to testimony that "look-alike" drugs are hazardous.

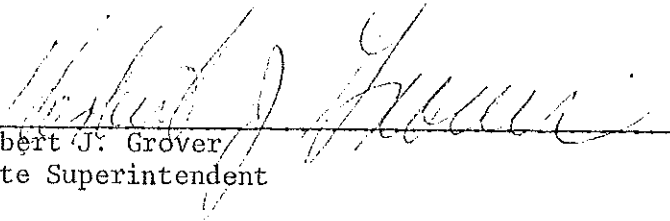
#### CONCLUSIONS OF LAW

That appellant sold "look-alike" pills to students in the District's high school as charged in the Notice believing such pills to be "speed" or in fact true amphetamines and that such acts did endanger the health and safety of other students in the District's high school as provided in sec. 120.13(1)(c), Wis. Stats. That the interest of the District's school demanded appellant's expulsion be affirmed. By its order, the Board expelled appellant for the remainder of the 1981-82 school year. Such order should be affirmed in this regard, however, in the interest of appellant's continuing his education, he is to be admitted unconditionally to school at the beginning of the 1982-83 school year.<sup>1</sup>

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1. I do not disagree with the Board's finding Number 11 and would encourage appellant's continued participation in such program until completed, however, in the interest of appellant receiving his education, I exercise my discretion in terminating the expulsion as described in this finding.

BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: So ordered.

Dated and mailed this 11th day of May, 1982.

  
Herbert J. Grover  
State Superintendent

An appeal from this decision may be taken within 30 days to the Circuit Court of the county in which the Lake Holcombe School District is located as provided in sec. 120.13(1)(c), Wis. Stats.