

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion from the
School District of Tigerton of RUSSELL
T [REDACTED],

OPINION
AND
ORDER

Appellant.

THE NATURE OF THE CASE

This is an appeal to the State Superintendent of Public Instruction of the State of Wisconsin pursuant to sec. 120.13(1)(c), Wis. Stats., from an expulsion decision of the Board of Education (hereinafter Board) of the School District of Tigerton (hereinafter Respondent) on May 3, 1982 expelling appellant from attendance at Tigerton High School for the remainder of the 1981-82 school year. Now having reviewed all matters of record, the State Superintendent makes the following:

FINDINGS OF FACT

Facts appearing of record, insofar as relevant to the instant order are as follows:

Appellant's main contention on appeal is that Mr. Gordon, Principal of the High School, appeared in closed session with the Board after the expulsion hearing and prior to the Board reaching its decision on May 3, 1982.

Appellant has admitted appellant's defiant behavior in class on April 2, 1982 for which he was put on probation for the remainder of the school year.

1. The undisputed facts of record indicate that both Principal Gordon and appellant were present during the hearing process, and there is nothing to support the position that appellant was not present. In any event, the last of the 1981-82 school year in the Respondent's schools was May 28, 1982 and the expulsion being terminated, the appeal is moot and is dismissed.

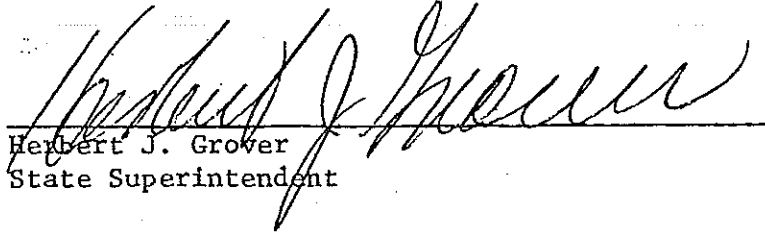
Similarly, appellant has admitted that on April 16, 1982, he defied his English teacher and walked out of class.

CONCLUSIONS OF LAW

Appellant has engaged in repeated violations of school rules and his behavior has been disruptive of the educational environment of Respondent's High School. The expulsion of appellant on its merits was justified under sec. 120.13(1)(c), Wis. Stats. No one disputes that the statutory requirements of sec. 120.13(1)(c), Wis. Stats., were satisfactorily followed by the Board which would require affirmation of the appeal if mootness did not demand its dismissal.² However, as this matter is now moot, the appeal must be dismissed.

BY THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION: So ordered.

Dated and mailed this 17th day of June, 1982.


Herbert J. Grover
State Superintendent

2. Racine Unified School District v. Barbara Thompson, State Superintendent of Public Instruction, Court of Appeals, District II, Case No. 80-2202, May 19, 1982. In regard to the State Superintendent's review of expulsion appeals, the Court said:

"While our decision here is founded solely upon an error of law of the state superintendent, we point out, obiter dicta, that the superintendent's review of a board's expulsion hearing would appear to be limited by the statute which created that appeal, namely, sec. 120.13(1)(c), Stats. The superintendent's review, then, would be one to insure that the school board followed the procedural mandates of subsection (c) concerning notice, right to counsel, etc."