

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
JOLENE M [REDACTED] by the Webster School
District Board of Education

OPINION
AND
ORDER

THE NATURE OF THE CASE

This is an appeal to the State Superintendent of Public Instruction pursuant to sec. 120.13(1)(c), Wis. Stats., from the February 15, 1983 decision of the Webster School District Board of Education expelling the appellant, Jolene (Jolie) M [REDACTED], from the Webster School District for the remainder of the 1982-83 school year. This appeal was filed on February 24, 1983. In accordance with the provisions of Wis. Admin. Code PI 1.04(3), this decision is confined to a review of the record of the School Board hearing. Both parties were provided with an opportunity to submit written arguments on the merits of this appeal but have not done so.

FINDINGS OF FACT

Jolie M [REDACTED], a tenth-grade student at Webster High School, was expelled by the Webster School Board for repeated violations of school rules after a hearing held by the Board on February 15, 1983. A notice of the expulsion hearing was sent to Jolie and her parents, Mr. and Mrs. L [REDACTED], on February 8, 1983. The grounds for expulsion alleged in the notice of hearing were:

(R)epeated refusal to obey regulations and instruction of classroom teachers and administration. The latest incident occurred on February 4, 1983. Jolie was reminded of her detention and she became very belligerent, used profanity and refused to comply with any instructions. After a two day suspension, she apparently has not learned from the situation as she continued to be belligerent at the parental conference.

Evidence submitted at Jolie's hearing indicated that Jolie had already been charged with six serious disciplinary infractions during the 1982-83 school year: On August 31, 1982, she was caught smoking in school and received a verbal reprimand; on September 8, 1982, she was truant for half the day and received a half day in-school suspension; on November 12, 1982, she was truant during the eighth period and received four nights of detention and two weeks of in-school restrictions; on December 20, 1982, she went to sleep in a corner of the library during first period and slept through her second period class for which she received two weeks of in-school restrictions; on February 4, 1983, when she was reminded of a detention imposed on her for her abuse of a pass to visit a doctor, she became verbally abusive, shouted profanities, was insubordinate, and refused to go into the principal's office for which she received a two day out-of-school suspension; and finally, on February 8, 1983, she came to school for a conference with her parents and the principal to discuss the events that lead up to her February 4, 1983 suspension at which time she engaged in much the same behavior as she had on February 4 and was again suspended. It was this last event which triggered the school district's decision to request Jolie's expulsion from school.

Jolie's school record, which was placed into evidence at the hearing, shows that Jolie was also charged with eight serious infractions of school rules during the 1981-82 school year and six serious infractions during the 1980-81 school year.

CONCLUSIONS OF LAW

The basis for this appeal is Jolie's claim that the grounds on which she was expelled did not merit expulsion and that the expulsion does not meet the best interest of the school or Jolie.

School districts are limited purpose municipal corporations and have only such powers as are conferred specifically by statute or are necessarily implied therefrom. Iverson v. Union Free High School District, 186 Wis. 342 (1925). School boards have been granted the authority to expel students in accordance with the provisions of sec. 120.13(1)(c), Wis. Stats. In addition to specifying several alternative grounds for expulsion, the statute expressly accords students charged with expellable offenses certain procedural rights including notice of hearing, entitlement to counsel, the option to close the hearing to the public, the preservation of a record of the proceedings, written notification of the expulsion order, and the right to appeal the board's expulsion decision to the State Superintendent of Public Instruction.

In a recent Wisconsin Court of Appeals decision involving the State Superintendent's review of an expulsion appeal, the Court made the following observation:

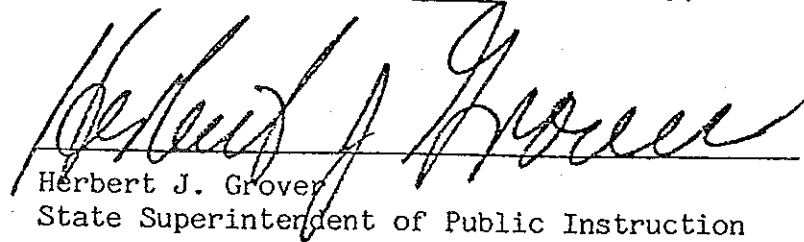
While our decision is founded solely upon an error of law of the state superintendent, we point out, obiter dicta, that the superintendent's review of a board's expulsion hearing would appear to be limited by the statute which created that appeal, namely, sec. 120.13(1)(c), Stats. The superintendent's review then, would be one to insure that the school board followed the procedural mandates of subsection (c) concerning notice, right to counsel, etc. Racine Unified School District v. Thompson, 107 Wis. 2d 657 (1982).

Section 120.13(1)(c), Wis. Stats., specifies that a school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey rules and is satisfied that the interest of the school demands the pupil's expulsion. Jolie M. [REDACTED] has repeatedly violated the School District of Webster's rules relating to student conduct. These repeated violations of school rules, in spite of the imposition of less drastic disciplinary measures, support the school board's conclusion that the interest of the school demanded Jolie's expulsion.

The board's decision to expel the appellant from school for repeated violations of school rules is adequately supported by the record in this matter. The record also reflects that appellant was accorded all of the procedural rights due her under sec. 120.13(1)(c), Wis. Stats.

IT IS THEREFORE ORDERED that this appeal be and hereby is denied.

Dated and mailed this 9th day of May, 1983.



Herbert J. Grover
State Superintendent of Public Instruction