

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
 ROBERT M. [REDACTED] by the Board of
 Education, School District of Port
 Edwards

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 April 25, 1983 decision of the Port Edwards school board expelling the appellant, Robert M. [REDACTED], from school for the remainder of the 1982-83 school year. This appeal was filed on May 9, 1983. In accordance with the provisions of Wis. Admin. Code PI 1.04(3), this decision is based on a review of the record of the school board hearing. Both parties were offered an opportunity to submit written arguments regarding the merits of this appeal. Neither, however, has done so.

FINDINGS OF FACT

Robert M. [REDACTED], a ninth-grade student at Port Edwards High School, was expelled by the Port Edwards school board for repeated violations of school rules after a hearing held by the school board on April 25, 1983. The expulsion was for the remainder of the 1982-83 school year.

The April 18, 1983 Notice of Expulsion Hearing sent to Robert and his parents contained the following alleged violations of school rules:

A. School Rules

1. Detention (See copy of detention record enclosed.)

a. Transferred one demerit from 8th grade, which was reduced to zero on September 21.

- b. By November 19, 1982 had accumulated 584 minutes of detention and 10 demerits.
 - c. Sat in-school suspension (ISS) on December 2, 3, and 6, 1982 which reduced the demerit count to one.
 - d. By April 7, 1983 had accumulated 539 minutes of detention and 11 demerits.
 - e. Notified of ISS which was sat on April 13, 14, and 15, 1983. This removed the 11 demerits.
 - f. After notification of ISS he accumulated 30 minutes of detention and one demerit.
2. Other Incidents
- a. Hitting other students on September 10, 1982, October 14, 1982, and in study hall.
 - b. Smoking on school property on November 24, 1982.
 - c. From November 24 through December 21, 1982 spent study halls in high school office for failure to behave in study hall.
 - d. January 1983. For two weeks spent study halls in high school office because of study hall behavior. See attached letter.

Robert and his parents appeared before the board at the expulsion hearing held on April 25, 1983, and substantially acknowledged the correctness of the allegations against him. The board's order expelling Robert was issued on the same date.

The basis for this appeal (filed on May 9, 1983) is that Robert's misconduct was not serious enough to justify his expulsion from school.

CONCLUSIONS OF LAW

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 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:

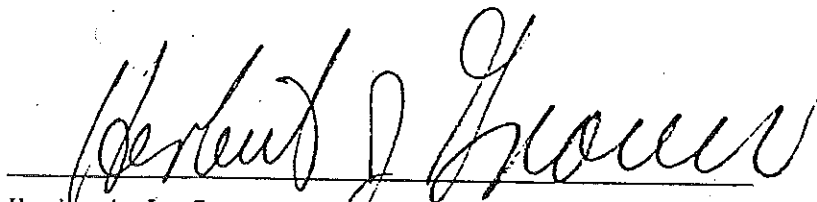
While our decision is founded solely upon an error of law of the state superintendent, we point out, obiter dicta, that the superintendent's review of a board's expulsion hearing would appear to be limited by the statute which created that appeal, namely, sec. 120.13 (1)(c), Stats. The superintendent's 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. Robert M. [REDACTED] has repeatedly violated the School District of Port Edwards' 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 Robert'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 the appellant was accorded all of the procedural rights due him under sec. 120.13(1)(c), Wis. Stats.

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

Dated and mailed this 7th day of June, 1983.



Herbert J. Grover
State Superintendent of Public Instruction