

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the Matter of the Expulsion  
of JOHN R. [REDACTED] by the Board of  
Education, Cochrane-Fountain City  
School District

OPINION  
AND  
ORDER  
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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 October 3, 1983 decision of the Cochrane-Fountain City School Board expelling the appellant, John R. [REDACTED], from school for the remainder of the 1983-84 school year. This appeal was filed on October 11, 1983. In accordance with the provisions of sec. PI 1.04(3), Wis. Admin. Code, 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 and both have done so.

FINDINGS OF FACT

John R. [REDACTED], a twelfth-grade student at Cochrane-Fountain City High School, was expelled by the Cochrane-Fountain City School Board for repeated violations of school rules after a hearing held by the school board on September 30, 1983. The expulsion was for the remainder of the 1983-84 school year.

On September 22, 1983, a Notice of Expulsion Hearing was sent to John R [REDACTED] and his parents and alleged that John R [REDACTED] had violated the student code of conduct some 68 times since February 11, 1980. A copy of the school board's enumeration of the violations of the student code of conduct which was attached to the Notice of Expulsion Hearing is attached as Attachment A.

John R [REDACTED] appeared before the board at the expulsion hearing held on September 30, 1983, and acknowledged the correctness of substantially most of the allegations against him. The board's order expelling John was issued on October 3, 1983.

The basis for this appeal is that John R [REDACTED]'s conduct 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 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).

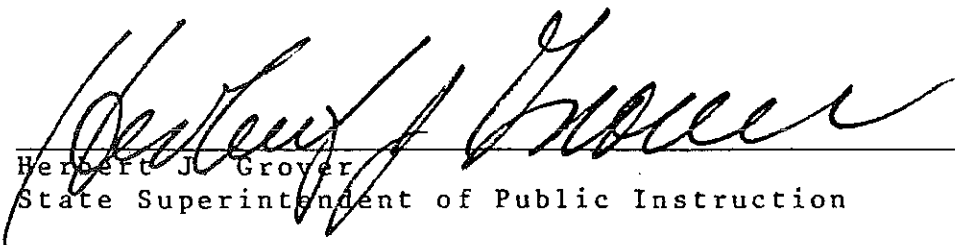
Section 120.13(1)(c), Wis. Stats., specifies that a school board may expel a pupil from school whenever it finds the pupil guilty of repeated refusal or neglect to obey rules and is satisfied that the interest of the school demands the pupil's expulsion. John R [REDACTED] has repeatedly violated the School District'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 John R [REDACTED]'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.

ORDER

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

Dated and mailed this 9th day of February, 1984.

  
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Herbert J. Grover  
State Superintendent of Public Instruction