

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
TRAVIS V [REDACTED]

INTERIM

by the Waterloo School District
Board of Education

ORDER
86-EX-09

This is an appeal to the State Superintendent of Public Instruction pursuant to s. 120.13(1)(c), Wis. Stats., from the May 6, 1986 decision of the Waterloo School District Board of Education expelling Travis V [REDACTED] from school for the remainder of the 1985-86 school year. The immediate matter before the state superintendent is the appellant's request to be reinstated pending final determination of the appeal, pursuant to sec. PI 1.09, Wis. Admin. Code.

A review of the documents submitted by the appellant indicates there is reason to believe the respondent school district did not comply with some of the procedural requirements of s. 120.13(1)(c), Wis. Stats.

First, there is no evidence in the documents presented by the appellant that the student individually was sent a copy of the notice of hearing on the proposed expulsion. Failure to send the student his or her own copy of the notice of hearing violates s. 120.13(1)(c), Wis. Stats., and is grounds for reversal of an expulsion. See Michael S. v.

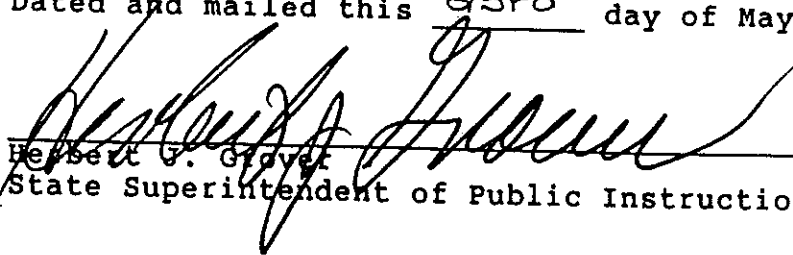
Milwaukee Public Schools Board of School Directors, Decision and Order No. 128, 5/10/85.

Second, the notice of hearing was not sent to the parties at least 5 days before the hearing as required by statute. The notice was sent on April 30, 1986 for a hearing scheduled on May 5, 1986. Applying the general rules for computing time, neither the date of the notice (April 30) nor the date of the event (May 5) may be counted in determining the amount of time. See ss. 990.001(4)(a) and (d), Wis. Stats. Therefore, in this case the appellant was given only four days notice of the hearing, in violation of the statute. Based on these apparent irregularities, there is a likelihood that the appellant will prevail on the merits of the appeal. Further, I find that that time is of the essence and that temporary relief is necessary to preserve the appellant's rights while this appeal is pending.

Based upon these findings, I conclude that the appellant, Travis V [REDACTED], is entitled to temporary reinstatement pending the disposition of the merits of this appeal.

IT IS THEREFORE ORDERED that appellant's request for reinstatement pending a final decision of the appeal is hereby granted, and the Waterloo School District Board of Education is ordered to reinstate the appellant forthwith.

Dated and mailed this 23rd day of May, 1986.



Herbert G. Grover
State Superintendent of Public Instruction