

THE STATE OF WISCONSIN  
BEFORE  
THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the expulsion appeal of  
JAY S [REDACTED]  
by the Plymouth School District  
Board of Education

DECISION  
AND  
ORDER  
87-EX-04

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NATURE OF THE APPEAL

On July 10, 1987, Jay S [REDACTED], through his attorney, filed with the State Superintendent of Public Instruction a "Notice of Appeal from the Order (Resolution) of the Board of Education for the Plymouth School District in the Matter of the Expulsion Hearing of Jay S [REDACTED], A Minor, and a Student of the Plymouth High School System." The Board's order that Jay is appealing provides that Jay is to be placed on probationary status for the first semester of the 1987-88 school year and that he is also subject to certain restrictions on his out-of-class activities. On July 14, 1987, the department's legal counsel sent a letter to the school district administrator and Jay's attorney, in which she questioned whether the State Superintendent has jurisdiction under s. 120.13(1)(c), Wis. Stats., to review the Board's order. Both parties filed briefs on the question of jurisdiction and that issue is now before the State Superintendent.

## FINDINGS OF FACT

On May 19 and 26, 1987, the Plymouth School District Board of Education held a hearing to consider the expulsion of Jay S████. Jay and his parents attended the hearing and were represented by counsel.

On June 9, 1987, the Board met and decided not to expel Jay. The Board's resolution specifically states, ". . . However, based upon the facts presented, the Board finds that the interests of the school demands [sic] discipline and restriction but does [sic] not demand the expulsion of Jay Snow." (Emphasis added.) The Board then stated it was not expelling Jay, but was placing him on probationary status for the first semester of the 1987-88 school year subject to a number of restrictions. The restrictions provide that Jay:

1. Be assigned to an area other than the cafeteria for lunch.
2. Be restricted from the building by 3:30 p.m., unless other arrangements are made.
3. Be restricted from public appearances, including marching band.
4. Be restricted from commons privileges.
5. Be restricted from use of passes from study hall except as noted in restriction #6.
6. Be limited to the use of the library and computer lab for assignments as authorized by passes from classroom teachers.

7. Complete a weekly progress report to be signed by his teachers, taken home for his parents' review and signature and returned to his counselor.
8. Report to the Board of Education on his progress on a monthly basis with the first such report at the October meeting.

The Board's decision also provided that the Board may lift the probationary status early or extend it depending on Jay's compliance with the terms of the probationary status.

Although the Board's decision, by its express terms, says that the Board is not expelling him, Jay has filed this appeal on the grounds that the restrictions placed on him by the Board constitute a de facto expulsion.

#### DISCUSSION

Section 120.13(1)(c), Wis. Stats., provides in relevant part,

The expelled pupil or, if the pupil is a minor, the pupil's parent or guardian may appeal the expulsion to the state superintendent.

(Emphasis added.)

In construing a statute, nontechnical words used, but not defined, in the statute are to be given their ordinary and accepted meaning, and this meaning may be determined by consulting a recognized dictionary. State ex rel. First Nat. Bank & Trust v. Skow, 91 Wis. 2d 773, 781 (1979); State v. Wittrock, 119 Wis. 2d 664, 670 (1984). Black's Law Dictionary defines "expulsion" as follows:

A putting or driving out. Ejectment; banishment; a cutting off from the privileges of an institution or society permanently.

Black's Law Dictionary, 693 (Revised Fourth Edition, 1976).

The term "expel" is defined as follows:

1. to force out from or as if from a receptacle . . .;
2. to drive away . . .;
3. to cut off from membership; <expelled from college> syn. see EJECT.

Webster's New Collegiate Dictionary, 403 (1977).

Thus, a student is "expelled" when the student is ejected or banished from school or cut off from membership in school. The common meaning of expulsion is that the student is not permitted to attend school at all for a specified period of time. Jay has not been expelled from school. He has not been cut off from coming to school, attending classes or acquiring his education. Although the Board has seen fit to put Jay on a probationary status and place certain restrictions on his out-of-class activities, these restrictions do not constitute an expulsion, de facto or otherwise.

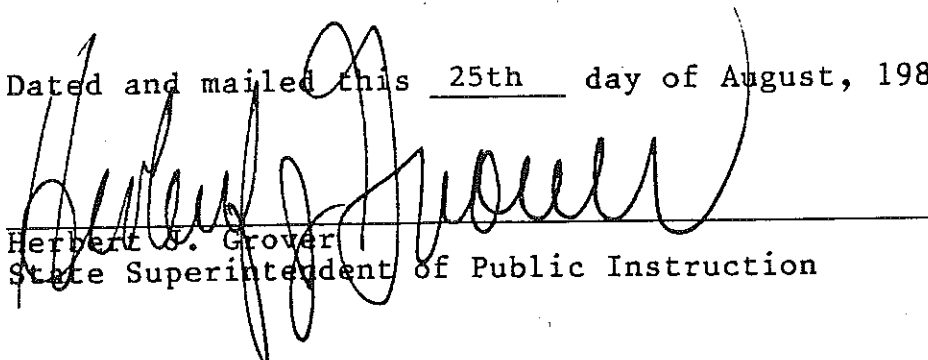
Besides looking at the definitions of "expel" and "expulsion", I have also taken into consideration the language in s. 120.13, Wis. Stats. Sec. 120.13(1)(a), Wis. Stats., gives school boards broad authority to "[m]ake rules for the organization, gradation and government of the schools of the school district, including rules pertaining to conduct and dress of pupils in order to maintain good decorum and a favorable academic atmosphere . . . ." Sec. 120.13(1)(b),

Wis. Stats., establishes when and how a student may be suspended from school. It is important to note that there are no provisions for pupils or their parents to appeal to the state superintendent concerning rules established by the school board under sub. (1)(a), or suspensions imposed under sub. (1)(b). It is only "expulsions" which may be appealed to the state superintendent under sub. (1)(c).

#### CONCLUSIONS AND ORDER

Based on the findings and discussion above, I conclude that Jay S████ was not expelled by the Plymouth School District Board of Education and therefore that the State Superintendent lacks jurisdiction to hear this matter under s. 120.13(1)(c), Wis. Stats. Accordingly, this appeal is hereby DISMISSED.

Dated and mailed this 25th day of August, 1987.

  
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Herbert S. Grover  
State Superintendent of Public Instruction