

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion

JASON R [REDACTED]

DECISION  
AND  
ORDER  
91-EX-06

by the Kenosha Unified School  
District No. 1 Board of Education

NATURE OF THE APPEAL

This is an appeal to the State Superintendent of Public Instruction pursuant to sec. 120.13(1)(c), Wis. Stats., from the order of the Kenosha Unified School District No. 1 Board of Education to expel Jason R [REDACTED] from the schools of the Kenosha Unified School District No. 1 from April 16, 1991, through the end of the 1991-92 school year. This appeal was filed by Trudy R [REDACTED], Jason's mother, and was received by the Department of Public Instruction on June 5, 1991.

In accordance with the provisions of sec. PI 1.04(5), Wis. Adm. Code, this decision is confined to a review of the record of the school board hearing. The state superintendent's review authority is specified in sec. 120.13(1)(c), Wis. Stats. The state superintendent's role is to ensure that the required statutory procedures were followed, that the board's decision was based upon one of the established statutory grounds, and that the board was

satisfied that the interest of the school demanded that the student be expelled.

#### FINDINGS OF FACT

On April 7, 1991, Trudy and Thomas, Jason's mother and father, and Jason R [REDACTED] were each served with a Notice of Hearing regarding the possible expulsion of Jason from school by the Kenosha Unified School District No. 1. Individual copies of the same notice were also mailed on April 6, 1991, by Paul F. Wokwicz, to Trudy, Thomas and Jason R [REDACTED]. The hearing notice stated that a hearing would be held on April 15, 1991, at 7 p.m. in the School Board Office Building, 3600 52nd Street, Kenosha, for the purpose of determining whether Jason should be expelled from school. The notice included a complete copy of sec. 120.13(1)(c), Wis. Stats.

The notice incorporated an attachment detailing the incidents of Jason's violation of school rules and rules of good conduct for the 1990-91 school year upon which the school board's decision would be based. The notice said that evidence would be received at the hearing regarding those incidents.

The school board had a transcript of the hearing made as the record of the hearing and kept written minutes of the executive session of the Kenosha school board during which the decision to expel Jason was made.

Neither Jason nor his mother or father were present at the hearing. At the hearing the assistant principal and the dean of students of Jason's junior high testified regarding the incidents set out in the Notice of Hearing. The testimony was relevant to Jason's repeated violations of school rules.

The school board decided to expel Jason in executive session following the hearing. The decision was based on the testimony presented at the hearing.

A Notice of Expulsion dated April 16, 1991, was mailed separately to Jason, his mother, and his father. The Notice of Expulsion stated that Jason was expelled immediately and through the end of the 1991-92 school year. The notice stated that the expulsion was ordered after the school board found that on two occasions Jason had a controlled substance in his possession while at school, that he was found smoking on school property, that he was insubordinate to teachers and administrators, that he refused to attend his classes while in the school building and that he repeatedly violated school rules. The notice stated that the board had further determined that the best interests of the school district demanded the expulsion of Jason from school.

#### DISCUSSION

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 School District, 186 Wis. 342, 353 (1925). A school board's power to expel students derives from sec. 120.13(1)(c), Wis. Stats., which sets forth specific procedures which must be followed in the expulsion process.

In reviewing an appeal of an expulsion decision, the Wisconsin Court of Appeals has stated that the scope of the state superintendent's review is limited by the language of sec. 120.13(1)(c), Wis. Stats. In Racine Unified School District v. Thompson, 107 Wis. 2d 657, 667, 321 N.W.2d 334 (1982), the Court of Appeals stated "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." (emphasis added). It is, therefore, the role of the state superintendent in reviewing an expulsion decision to ensure that the statutory procedures were followed.

In reviewing the record in this case I found that the Kenosha Unified School District No. 1 complied with all of the requirements for a proper expulsion. I will therefore affirm its decision.

Mrs. R [REDACTED] has asked me to let Jason back in school and to give him another chance. Mrs. R [REDACTED] regrets not having attended Jason's expulsion hearing and is seeking help to help Jason. While I sympathize with Mrs. R [REDACTED] in her desire to get Jason back in school, the decision was made by the board in accordance with the law and is a legal

expulsion. I am without authority to inquire any further into the matter. I applaud Mr. and Mrs. R [REDACTED] for the efforts they have made for Jason and hope that they will continue to pursue options for him.

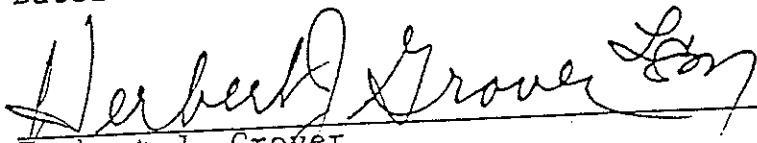
#### CONCLUSIONS OF LAW

Based upon my review of the record in this case and the findings set out above, I conclude that the school board complied with all of the procedural requirements of sec. 120.13(1)(c), Wis. Stats., that the board's decision was properly based on established statutory grounds and that the board found that the interest of the school demanded that the student be expelled.

#### ORDER

IT IS THEREFORE ORDERED that the expulsion of Jason R [REDACTED] by the Kenosha Unified School District No. 1 Board of Education is affirmed.

Dated and mailed this 2nd day of August, 1991.



Herbert J. Grover  
State Superintendent of Public Instruction