

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the Matter of the Expulsion of  
JESSE F [REDACTED]  
by the Stanley-Boyd School  
District Board of Education

DECISION  
AND  
ORDER  
92-EX-04

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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 Stanley-Boyd School District Board of Education to expel Jesse F [REDACTED] from the schools of the Stanley-Boyd School District for the balance of the 1991-92 school year and for the first semester of the 1992-93 school year. This appeal was filed by Thomas A. Starr, Attorney for Jesse's parents, Mr. and Mrs. Randy F [REDACTED], and was received by the Department of Public Instruction on March 4, 1992. No grounds for the appeal were specified.

In accordance with the provisions of sec. PI 1.04(5), Wis. Adm. Code, this Decision and Order 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 school board's decision was based upon one or more of the established statutory grounds, and that the school board was satisfied that the

interests of the school district demand that the student be expelled.

#### FINDINGS OF FACT

The record reflects that Notice of the Pupil Expulsion Hearing was sent by certified mail to Mr. and Mrs. F█████ and was signed for by Mrs. (Connie) F█████ on February 14, 1992. That notice was addressed to the parents and to Jesse F█████. According to a letter dated March 18, 1992, and signed by Robert P. Hauser, Principal of Stanley-Boyd High School, Jesse was also hand-delivered a copy of that notice by Mr. Hauser on February 6, 1992. Mr. Hauser's letter asserting this hand-delivery is not disputed in this appeal.

The notice informed the F█████ that on February 19, 1992, at 8:00 p.m., the school board would hold a hearing at the high school library to consider Jesse's possible expulsion. A complete copy of sec. 120.13(1)(c), Wis. Stats., was printed on the back of the notice. The notice stated that the expulsion decision would be based on consideration of evidence related to specific reported disciplinary incidents itemized in a letter dated December 12, 1992, and which was attached to and incorporated by reference into the notice.

The school board held Jesse's expulsion hearing at the place and at the approximate time stated in the Notice of the Pupil Expulsion Hearing. Mr. and Mrs. F█████ appeared at the hearing without counsel. Jesse was not present at the hearing. Written minutes of the hearing were kept and a tape recording of the

hearing was prepared and submitted to the State Superintendent with the record.

At the beginning of the hearing, Attorney Ed Coe, acting on behalf of the school board, explained the hearing procedure, including the fact that Jesse's parents could question school district witnesses.

At the hearing the school district called Robert Hauser to testify about the disciplinary incidents incorporated into the Notice of the Pupil Expulsion Hearing. Those incidents included various thefts of school property and the lighting of a firecracker in the school. Mr. Hauser testified that Jesse had admitted to engaging in repeated thefts of school property identified in the notice, including keys from the school office, 100 colored pencils from Mr. Hagen's room, two stop watches from the wrestling storage area, and candy bars from the library on December 9, 1992.

It is not clear whether Jesse actually admitted lighting a firecracker on school property on December 5, 1991, but according to the testimony of Mr. Hauser, other students involved in that incident evidently implicated Jesse. Apparently, these other students also implicated Jesse in the thefts of money from a candy box in the library and money from the school's ice cream machine. At the conclusion of Mr. Hauser's testimony, Mr. F [REDACTED] stated that Jesse had admitted to certain thefts, but not to taking pencils or money from the school.

Upon conclusion of the hearing, the school board deliberated and then returned with its decision. The school board found that

Jesse had engaged in repeated refusal or neglect to obey the school rules and that he had engaged in conduct while at school or under the supervision of a school authority which endangered the property, health or safety of others; specifically he took keys and property of others without their consent and he lit a firecracker in the school building. Further, the school board found that the interests of the school district demanded the pupil's expulsion. Those findings state a statutory basis for expulsion.

According to a handwritten note on the Findings and Expulsion Order filed with this Department, the District Administrator, Charles Poulter, met with Jesse and with Mr. F [REDACTED] at 8:00 a.m. on February 20, 1992, and gave them each a copy of the Findings and Expulsion Order. That notation as to delivery of the decision is not disputed in this appeal.

#### 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 High School Dist., 186 Wis. 342, 353, 202 N.W. 788 (1925). A school board's power to expel students derives from sec. 120.13(1)(c), Wis. Stats., which establishes certain categories of offenses which may be the basis for an expulsion and sets out 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 to that set out in sec. 120.13(1)(c), Wis. Stats. In Racine Unified School Dist. v. Thompson, 107 Wis. 2d 657, 667, 321 N.W.2d 334 (1982), the court of appeals in dicta 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." Id. It is therefore incumbent upon the State Superintendent in reviewing an expulsion decision to ensure that the required statutory procedures were followed, that the school board's decision is based upon one of the established statutory grounds, and that the school board is satisfied that the interests of the school district demand the pupil's expulsion.

In reviewing the record in this case I find that the Stanley-Boyd School District complied with all of the statutory requirements for a proper expulsion. While I sympathize with Mr. and Mrs. F. [REDACTED] in their desire to get Jesse back in school, the expulsion decision was made by the school board in accordance with the law and is a legal expulsion. My review does not extend to matters such as harshness or duration of expulsion. I will, therefore, affirm the decision.

I do note that the expulsion decision refers to a possible conference with Jesse and his parents prior to the fall semester and also refers to the possibility of Jesse's readmission to school in that semester upon conditions the school district may deem appropriate. I commend the school district for opening the

door to Jesse's more speedy readmission in this way and I urge all involved to fully explore this invitation.

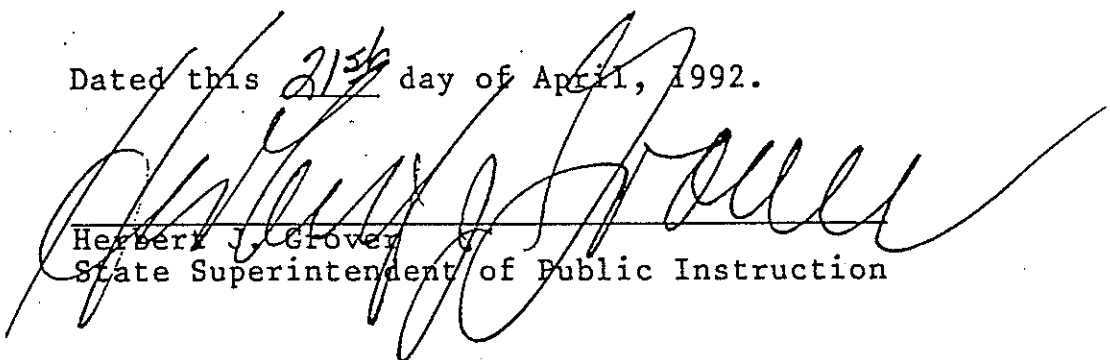
#### CONCLUSIONS OF LAW

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 school board's decision was properly based on established statutory grounds and that the school board found that the interests of the school district demanded that the student be expelled.

#### ORDER

IT IS THEREFORE ORDERED that the expulsion of Jesse F. [REDACTED] by the Stanley-Boyd School District Board of Education is affirmed.

Dated this 21<sup>st</sup> day of April, 1992.

  
Herbert J. Grover  
State Superintendent of Public Instruction