

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
DEMETRIS S [REDACTED]

by the Milwaukee School District
Board of Education

DECISION
AND
ORDER
92-EX-08

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 Milwaukee School District Board of Education to expel Demetris S [REDACTED] from the schools of the Milwaukee School District until June 14, 1992. This appeal was filed by Christine S [REDACTED], Demetris' mother, and was received by the Department of Public Instruction on April 9, 1992.

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 secs. 120.13(1)(c) and 119.25(2), 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 of the established statutory grounds, and that the school board was satisfied that the best interests of the school district demand that the student be expelled.

FINDINGS OF FACT

On February 28, 1992, the school district sent by bonded messenger separate notices to Demetris and to his mother stating that Demetris was being recommended for expulsion. The notices stated that on Wednesday, March 4, 1992, at 8:30 a.m. in Room 261 of the Milwaukee Public Schools Administration Building, a hearing would be held by the Independent Hearing Panel to consider the recommendation that Demetris be expelled from the district schools. The notice stated that Demetris was accused of possession of a weapon, an unloaded BB gun, at Bell Middle School on Thursday, February 20, 1992. Complete copies of secs. 119.25 and 120.13(1)(c), Wis. Stats., were attached to each of the notices.

The Independent Hearing Panel held the hearing at the place and time stated in the notices. Demetris and his mother were in attendance and were not represented by legal counsel. A transcript was made of the hearing.

Donald A. Krueger, Acting Principal at Bell Middle School, testified at the hearing. He stated that both a teacher and a student had told him that they had seen Demetris with a gun in school on February 20, 1992. He also testified that Demetris had admitted at a prehearing conference on February 26, 1992, that he had a gun in his possession at Bell Middle School on February 20, 1992, and that on that date he was aware of the school district's policy that possession of a weapon in school could lead to expulsion.

Nancy Moore, a Student Service Specialist with the school district, testified regarding the prehearing conference she conducted on February 26, 1992. Ms. Moore testified that at that conference Demetris told her that on February 20, 1992, he had received a BB gun at the school from another student and that he stored it in his locker during the day until the end of the day when he took it on the school bus.

Demetris and his mother had an opportunity to present evidence and to cross-examine witnesses at the March 4, 1992, hearing.

On March 6, 1992, the Proposed Findings of Fact and Conclusions of Law and Expulsion Order of the Independent Hearing Panel was sent by bonded messenger to Demetris and separately to his mother. The panel found that Demetris did have a gun in his possession at school on February 20, 1992, and that he therefore was engaged in conduct while at school and while under the supervision of a school authority, which endangered the health and safety of others. They found that the interests of the Milwaukee Public Schools demanded that Demetris be expelled until June 14, 1992. The panel further recommended that Demetris continue to receive educational services at a community-based organization placement and that he receive psychological services to assist him.

The panel's proposed expulsion order stated that within 30 days of the order, the Milwaukee Board of School Directors will review the expulsion order and shall approve, reverse or modify the order. It further stated that the proposed order would be

enforced while the review proceeds. Complete copies of secs. 199.25 and 120.13(1)(c), Wis. Stats., were attached to the proposed order.

On March 26, 1992, the decision of the Milwaukee Board of School Directors was sent by first-class mail to Demetris and separately to his mother. The decision was to adopt the Independent Hearing Panel's proposed findings and order to expel Demetris until June 14, 1992. Complete copies of secs. 119.25 and 120.13(1)(c), Wis. Stats., were attached to the final decision.

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 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 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 Dist. v. Thompson, 107 Wis. 2d 657, 667, 321 N.W. 2d 334 (1982), the court of appeals in dicta stated that, "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." Thompson, supra. (emphasis added). It is, therefore, the role of the State Superintendent in reviewing an expulsion decision to insure that the 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.

After reviewing the record in this case I find that the Milwaukee School District Board of Education complied with all of the requirements for a proper expulsion. I will therefore affirm its decision.

In reviewing this record I was impressed by the actions of all the parties involved with this expulsion. I applaud Demetris and his mother for admitting Demetris' actions and for accepting responsibility for them. I further applaud them for accepting the alternative educational program offered them and hope that Demetris' education will not suffer a setback as a result of his expulsion. It is heartening to see people who can admit to mistakes and go on from there. The supportive relationship between mother and son is apparent from the record.

I would also like to applaud the Milwaukee Public Schools for considering the needs of the individual child while enforcing its weapons policy in the schools. I am glad to see that Demetris received services in an alternative setting after his expulsion to enable him to continue receiving educational services and that he was to receive psychological services to help him cope with what has occurred in his life this past year.

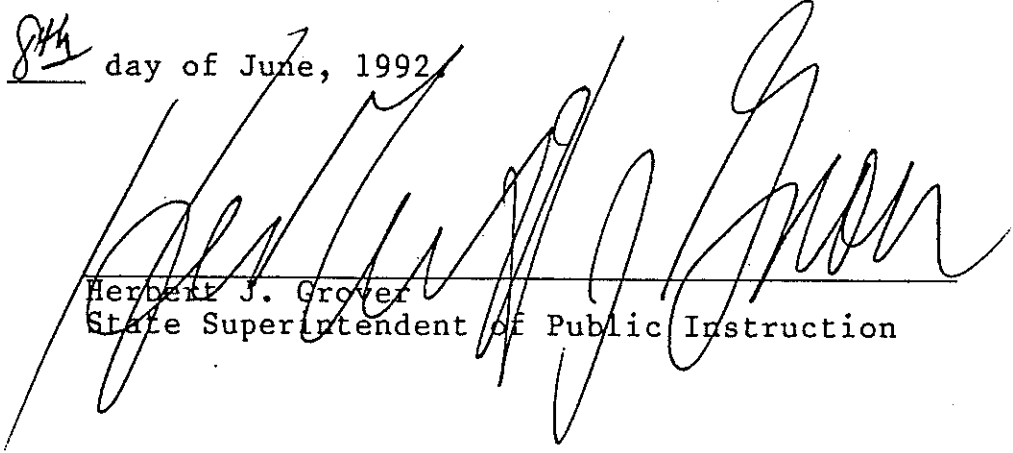
CONCLUSIONS OF LAW

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 secs. 119.25 and 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 Demetris S██████ by the Milwaukee School District Board of Education is affirmed.

Dated this 8th day of June, 1992.


Herbert J. Grover
State Superintendent of Public Instruction