

STATE OF WISCONSIN
BEFORE THE
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
BRIAN V [REDACTED]
by the Shorewood School District
Board of Education

DECISION
AND
ORDER
92-EX-10

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 March, 1992 order of the Shorewood School District Board of Education expelling Brian V [REDACTED] from school for the balance of the 1991-92 school year. The appeal was filed by Pam V [REDACTED], Brian's mother, and was received by the Department of Public Instruction on April 8, 1992.

As provided under sec. PI 1.04(5), Wis. Adm. Code, this appeal is confined to a review of the record of the school board hearing, and written statements filed by the parties. The State Superintendent's review authority is to ensure that the required statutory procedures under sec. 120.13(1)(c), Wis. Stats., 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 interests of the school district demanded that the student be expelled.

FINDINGS OF FACT

On March 3, 1992, the district courier hand-delivered separate notices to Brian and his parents stating that on March 10, 1992, a hearing would be held to consider Brian's expulsion from school. The notice gave as a reason for the proposed expulsion that Brian brought a spring-loaded knife onto the Shorewood campus and into the technology building during school hours on February 3, 1992, and attempted to hide the knife when the assistant principal arrived. It stated that Brian's conduct violated the school district's policy which prohibits any student from possessing, using or storing a dangerous weapon on school premises, including knives. A complete copy of sec. 120.13(1)(c), Wis. Stats., was attached to the notices.

The Shorewood School District Board of Education (hereafter "school board") held the hearing at the place and time stated in the notices. Brian and his parents were in attendance and were not represented by legal counsel. A transcript was made of the hearing.

Dean Schultz, Assistant Principal at Shorewood High School, testified at the hearing. He stated that on February 3, 1992, at 1:00 p.m. he was called to go to the technology building to settle a dispute between a student and a village member which had occurred over the lunch period. Mr. Schultz testified that upon his arrival at the building a student announced Mr. Schultz's arrival to Brian. Mr. Schultz then saw Brian hunch down and put something on the floor, which he then discovered to be a spring-loaded knife. Mr. Schultz introduced pictures of the

knife. He stated that Brian admitted putting the knife on the floor, that it did not belong to him, but that he had it in his possession in the shop building.

Mr. Schultz indicated that he asked Brian to follow him outside the technology building, whereupon Brian saw the village member and resumed his altercation with him. According to Mr. Schultz, Brian then left the campus area against his directions for Brian to go to his office. However, Brian returned a few minutes later to face the consequences of what he had done and acknowledge his error.

Brian and his parents had an opportunity to present evidence and to cross-examine witnesses at the March 10, 1992, hearing.

Following the hearing, the school board met and voted to expel Brian from the school district for the balance of the 1991-92 school year. It found that Brian had brought a spring-loaded knife into the technology building of the Shorewood campus during fifth hour class on February 3, 1992, and attempted to hide the knife when the assistant principal arrived. It also found that Brian had engaged in conduct while at school which endangered the property, health and safety of others, and the the school board is satisfied that the interest of the school district demands Brian's expulsion.

The school board incorporated its findings into a Resolution of Expulsion, and made the expulsion subject to conditions contained in the resolution and attached to its expulsion order. The resolution conditioned Brian's expulsion upon the findings of an M-Team evaluation by providing: If Brian is found to have

exceptional education needs which are not related to his misconduct proven at hearing, the expulsion would go into effect and an alternative educational program will be provided. If the M-Team concludes Brian has exceptional educational needs and his misconduct is determined to be related to those needs, the expulsion order will be stayed for as long as Brian participates in a special education program recommended for him, and the expulsion order will terminate at the end of the 1991-92 school year.

The school board also resolved that the clerk issue an order expelling Brian and mail it to Brian and to his parents. The record shows that Brian's mother sent his sister to the superintendent's office to pick up two copies of the school board's expulsion order, one for Brian and one for the family, and that Brian's mother gave permission over the phone for school staff to hand both documents over to his sister.

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." Id. It is, therefore, the role of the State Superintendent in reviewing an expulsion decision is based upon one of the established statutory grounds, and that the school board is satisfied that the interest of the school district demands the pupil's expulsion.

After reviewing the record in this case I find that the Shorewood 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 glad to see the school district arranging to provide alternative educational services in the event Brian's misconduct is found to be unrelated to any exceptional educational needs. I applaud Brian and his parents for accepting the alternative educational program offered them and hope that Brian's education will not suffer a setback as a result of his expulsion. The supportive relationship between Brian and his parents is apparent from the record.

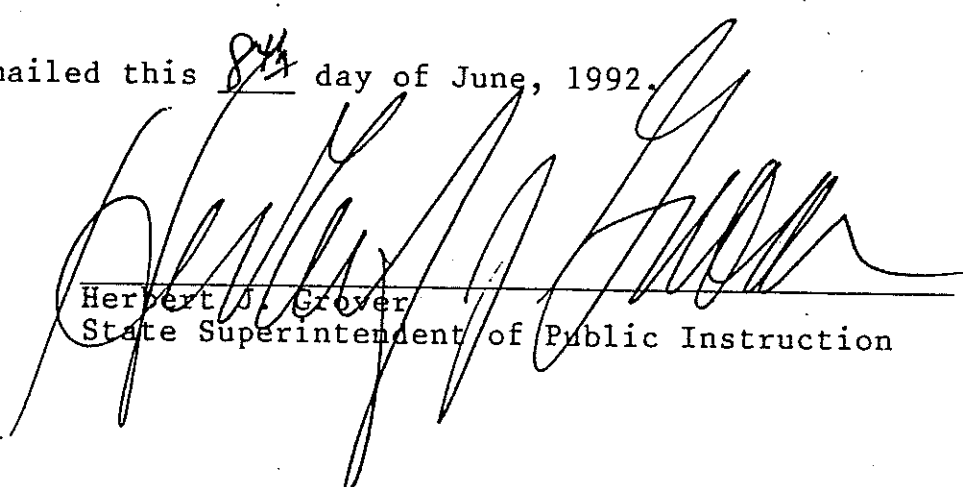
CONCLUSIONS OF LAW

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. 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 Brian V [REDACTED] by the Shorewood School District Board of Education is affirmed.

Dated and mailed this 24 day of June, 1992.



Herbert J. Grover
State Superintendent of Public Instruction