

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
FREDDIE B [REDACTED]

by the Franklin School
District Board of Education

DECISION
AND
ORDER
92-EX-15

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 Franklin School District Board of Education expelling Freddie B [REDACTED] from the Franklin School District from October 7, 1992, through the remainder of the 1992-93 school year. This appeal was filed by Freddie's father, Mr. Freddie B [REDACTED], and was received by the Department of Public Instruction on October 22, 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 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 contains a letter dated September 30, 1992, from the Franklin School District administration which was sent to Freddie and to his parents separately. The letter advised that a hearing would be held on October 7, 1992, which could result in Freddie's expulsion. The letter referenced an earlier letter to the parents dated September 21, 1992, which alleged that Freddie had thrown a chemical substance on another student's shirt on September 16, 1992. Both the September 21 and September 30, 1992, letters also made reference to a February 1992 incident in which Freddie was suspended from the bus for spraying a similar chemical substance on a bus driver. The September 30, 1992, letter indicated that both of those incidents would be considered as grounds for expulsion and that Freddie's other disciplinary record may also be considered.

The hearing was conducted in closed session on October 7, 1992. Freddie and his parents appeared at the hearing. They were accompanied by three other individuals who spoke on behalf of Freddie. At the hearing the school district administration presented testimony and documents supporting the alleged misconduct by the pupil. Freddie, his parents, and other representatives were given an opportunity to question and to respond to the administration's assertions.

After the hearing, the school board deliberated in closed session and returned with its decision to expel Freddie. An Order of Expulsion was subsequently entered on October 19, 1992, and was sent to Freddie and to his parents. In reaching its

decision, the school board found that Freddie had intentionally sprayed the back of a school bus driver with a chemical mixture on January 30, 1992; that Freddie had intentionally thrown a chemical mixture on a student's back on September 16, 1992; and that Freddie had engaged in a variety of other school rule violations. Finally, the school board found that the interests of the school demanded the pupil's expulsion.

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 Franklin School District complied with all of the procedural requisites in this matter. I am, therefore compelled to affirm the expulsion decision as entered.

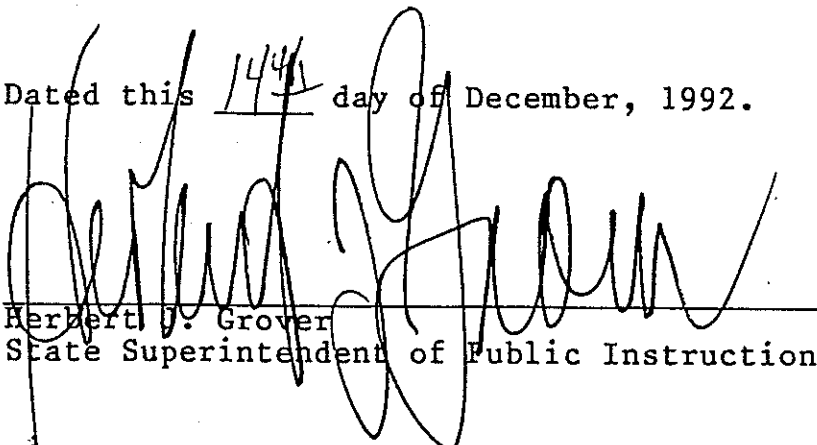
CONCLUSIONS OF LAW

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.

ORDER

IT IS THEREFORE ORDERED that the expulsion of Freddie B [REDACTED] by the Franklin School District Board of Education is affirmed.

Dated this 14th day of December, 1992.


Herbert J. Grover
State Superintendent of Public Instruction