

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
HOPE B [REDACTED]
by the Randolph School District Board
of Education

DECISION
AND
ORDER
94-EX-06

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 February 9, 1994, order of the Randolph School District Board of Education to expel Hope B [REDACTED] from Randolph Middle School for the remainder of the 1993-94 school year. This appeal, dated February 9, 1994, was filed by Hope's attorney, Fred N. Tabak, and was received by the Department of Public Instruction on February 11, 1994.

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), 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 Notice of Public Expulsion Hearing dated January 24, 1994. The record also contains an Amended Notice of Pupil Expulsion Hearing dated February 1, 1994. These Notices were sent separately to Hope and her parents. The record contains a Receipt of Letter indicating the Randolph Police Department delivered the Amended Notice of Hearing on February 2, 1994, to Hope and her mother. The Amended Notice advised that the expulsion hearing would be held on February 8, 1994, and could result in Hope's expulsion from school. The Amended Notice contained an allegation that Hope was guilty of repeated refusal or neglect to obey the rules and of using abusive language which disrupted the office routine during an in-school suspension on January 20 and 21, 1994. The Amended Notice further alleged the interests of the school demanded Hope's expulsion. The Amended Notice advised that if the misconduct was proven, the board would decide whether to expel Hope and for what period of time. In making this decision, the Amended Notice noted, the board may consider Hope's complete discipline and academic record.

The expulsion hearing was conducted in closed session on February 8, 1994. Audio tapes of the hearing were made and are part of the record. Hope and her parents appeared in person. Hope and her mother were represented by Attorney Fred N. Tabak. Hope's father was unrepresented. At the hearing the school district administration presented testimony supporting the alleged misconduct by the pupil. Various witnesses established Hope's involvement in multiple instances of misconduct in failing to follow school rules. An exhibit admitted at the hearing contained details of each incident of

misconduct. The exhibit listed each incident of misconduct chronologically, detailing the date, the alleged infraction, and the teacher or staff person involved. A reporting form was used in each instance providing the factual background of the alleged misconduct. At the hearing teachers and staff persons involved in the alleged misconduct testified to the detailed instances of Hope's misconduct. Hope, her parents, and her attorney were given an opportunity to review the documents, to question witnesses, and to respond to the allegations. The school district administration also provided Hope's complete cumulative file to be used in determining whether to expel Hope and for what period of time.

After the hearing the school board deliberated in closed session. The school board decided to expel Hope for the remainder of the 1993-1994 school year. An Order of Expulsion was signed on February 9, 1994. A copy of the Order was sent to Hope, her attorney, and her parents. The school board found that Hope was guilty of repeated refusal or neglect to obey the rules and further 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.

Hope's attorney did not submit a brief nor did the appeal letter specifically allege any procedural or substantive error. A review of the record in this case indicates the school district administration based the expulsion request on the grounds of repeated refusal or neglect to obey school rules. Where expulsion is based on repeated violations of school rules the record should contain evidence that the student has been provided with a list of those rules and the consequences for violating them. Antonio M. v. Kenosha Unified School District, Decision and Order No. 176, p. 8 (April 18, 1991). In this case evidence was received concerning the school rules and the consequences for violating them. The record indicates a copy of the discipline policy was given to each student and discussed in their home room on the first day of school. The student handbook also

contained a reference to the discipline policy. Each student received a copy of the student handbook. In addition, the record indicates that the discipline policy for grades six to eight was printed in the school district newspaper. The newspaper was distributed to each household in the school district.

In reviewing the record in this case I find that the Randolph School District complied with all of the applicable procedural requisites. I therefore affirm the expulsion decision as entered.

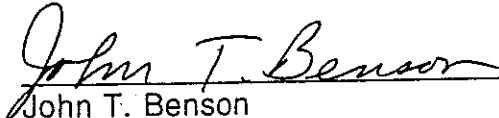
CONCLUSIONS OF LAW

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 Hope B [REDACTED] by the Randolph School District Board of Education is affirmed.

Dated this 12th day of April, 1994.



John T. Benson
State Superintendent of Public Instruction