

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of	DECISION AND ORDER 94/95-EX-13
SUPARIN C [REDACTED]	
by the Janesville School District Board of Education	

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 Janesville School District Board of Education to expel Suparin C [REDACTED] from the Janesville School District for the balance of the 1994-95 school year and first semester of the 1995-96 school year. This appeal, dated April 18, 1995, was filed by Suparin's father, Sien Suon, and was received by the Department of Public Instruction on April 21, 1995.

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 entitled dated March 17, 1995 from the District Administrator of the Janesville School District. The letter advised that a hearing would be held on April 3, 1995 at 7:00 p.m. concerning the expulsion of Suparin C [REDACTED] from the Janesville School District. The letter was sent separately to Suparin and his parents by certified mail. The letter alleged that Suparin endangered the property, health or safety of others when he was arrested for committing battery to another student on school property. Copies of two school board policies and a current copy of sec. 120.13(1)(c), Wis. Stats., were included with the letter. The letter further indicated that a set of materials to be used at the expulsion hearing would be sent to the parents. Copies of those materials are part of the record, and they include Suparin's disciplinary and attendance history as well as report cards and progress history. Also included are Janesville Police Department incident reports.

The record contains a written recommendation for expulsion from the school principal dated March 23, 1995, as well as a written expulsion summary from the assistant principal. The record also contains minutes of the hearing.

The hearing was held in closed session on April 3, 1995. Suparin, his parents and his aunt appeared at the hearing. They were not represented by counsel. At the hearing the school district administration asked Suparin if they received and read the packet of information that was prepared for the hearing. Suparin and his parents answered, "yes." The school district administration presented the information packet as grounds for the expulsion. Suparin was then asked if he admitted to the conduct and to making the statements on pages 4 through 7 of the

incident reports. Suparin answered that he did admit to most of it and acknowledged striking the other student. No other testimony was offered.

After the hearing, the school board deliberated in closed session and decided to expel Suparin from the school district through the first semester of the 1995-96 school year with the opportunity to reapply for the second semester of the 1995-96 school year. An Order of Expulsion was subsequently entered on April 20, 1995 and was sent separately to Suparin and to his parents on April 21, 1995.

In reaching the decision, the school board found that Suparin had endangered the health or safety of others and that the interests of the school demand the student'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.

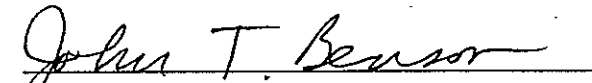
The appeal letter in this case states that the length of the expulsion is excessive under the circumstances. Issues such as harshness or duration of the expulsion have generally not been reviewed by the State Superintendent. The State Superintendent has repeatedly held that the length of the expulsion is generally within the discretion of the school board as long as the board complies with all of the procedural requirements of sec. 120.13(1)(c), Wis. Stats. See *Brandon H. v. DeSoto Area School District Board of Education*, Decision and Order No. 206 (May 3, 1993); *Lavel A. v. Kenosha Unified School District Board of Education*, Decision and Order No. 147 (January 12, 1987); and *Susan Marie H. v. Kenosha Unified School District Board of Education*, Decision and Order No. 157 (June 18, 1988).

Based on my review of the record in this case and the findings set forth above, I concluded that the school board complied with all the procedural requirements of sec. 120.13(1)(c), Wis. Stats. I am therefore compelled to affirm the expulsion.

ORDER

IT IS THEREFORE ORDERED that the expulsion of Suparin C [REDACTED] by the Janesville School District Board of Education is affirmed.

Dated this 12th day of June, 1995.



John T. Benson
State Superintendent of Public Instruction