

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of  
JARED L [REDACTED]  
by the Northland Pines School District  
Board of Education

DECISION AND ORDER  
95/96-EX-20

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 5, 1996 order of the Northland Pines School District Board of Education to permanently expel Jared L [REDACTED] from, a 10th grade pupil, from school. This appeal was filed Jared's mother and was received by the Department of Public Instruction on February 6, 1996.

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 interest of the school district demands that the student be expelled.

## FINDINGS OF FACT

The record contains a "Notice of Expulsion Hearing" dated January 23, 1996 signed by the District Administrator of the Northland Pines School District. The notice advised a hearing would be held on January 31, 1996 which could result in Jared's expulsion of from school until his 21st birthday. The notice was sent separately to Jared and his mother. The notice alleged Jared was guilty of repeated refusal or neglect to obey school rules. A current copy of sec. 120.13(1)(c), Wis. Stats., was attached to the notice. The record also contains the minutes of the school board hearing and Jared's academic and disciplinary record. Copies of various disciplinary referrals and audio tapes of expulsion hearings held on November 9, 1995 and January 31, 1996 were made and are included in the record.

The hearing was held in closed session on January 31, 1996. Jared and his mother appeared at the hearing without counsel. At the hearing, the school board adopted the findings of an expulsion hearing previously held on November 9, 1995. Jared and his mother were given the opportunity to present new evidence to the board and to respond to the administration's request for expulsion.

After the hearing, the board deliberated in closed session. The board found Jared guilty of repeated refusal or neglect to obey school rules and found the interests of the school demand the pupil's expulsion. The order of expulsion containing the board's findings, dated February 5, 1996 was mailed separately to Jared and his mother. The order recited that Jared was permanently expelled. The order further provided that when Jared turned 17 years old the school district would approve his participation in the GED program.

## 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 District*, 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 District 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.* In a related context, the court of appeals ruled this dictum has now become "embedded in Wisconsin school law." *Madison Metropolitan School District (Lenny G.) v. Wis. D.P.I.*, 543 N.W. 2d 843 (1995). 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 raises no specific issues for consideration. The school board had previously expelled Jared on November 14, 1995. That expulsion was reversed by the State Superintendent. *Jared L. v. Northland Pines School District Board of Education*; Decision and

Order No. 271 (January 19, 1996). The school board then reinstated expulsion proceedings against Jared. The board sent a new expulsion notice alleging repeated refusal or neglect to obey school rules. The expulsion hearing was held on January 31, 1996. Jared and his mother appeared at the hearing. The school board permitted them to introduce any new evidence they had in response to the allegations in the expulsion notice. The school board then adopted the evidence previously introduced at the initial expulsion hearing. The board also considered the new evidence submitted by Jared and his mother.

I have reviewed the record in this case. I find that the board followed all of the procedural requirements of sec. 120.13(1)(c), Wis. Stats., and, therefore, I affirm the expulsion order. I also wish to applaud the school board for considering Jared's educational needs by approving his participation in the GED program when he turns 17 years of age.

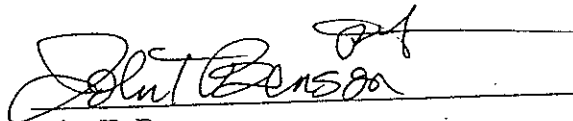
#### CONCLUSIONS OF LAW

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 Jared L [REDACTED] by the Northland Pines School District Board of Education is affirmed.

Dated this 29th day of March, 1996.



John T. Benson  
State Superintendent of Public Instruction