

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of
MICHAEL R. B [REDACTED]
by the Menomonie Area School District
Board of Education

DECISION AND ORDER
95/96-EX-21

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 January 26, 1996 order of the Menomonie Area School District Board of Education to permanently expel Michael R. B [REDACTED] from the Menomonie Area School District. This appeal, dated February 7, 1996, was filed by Michael's attorney, Peter J. Morin, and was received by the Department of Public Instruction on February 13, 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 letter entitled "Notice of Pupil Expulsion Hearing" dated December 29, 1995 from the District Administrator of the Menomonie Area School District. The letter advised that a hearing would be held on January 10, 1996 concerning the expulsion of Michael from the Menomonie Area School District. The letter was sent separately to Michael and his parents by regular and certified mail. The letter alleged that Michael repeatedly refused or neglected to obey school rules, that Michael engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others, and that Michael endangered the property, health or safety of an employee or school board member of the school district in which he is enrolled. Attached to the letter were copies of numerous disciplinary referrals. A current copy of sec. 120.13(1)(c), Wis. Stats., accompanied the letter. The record also contains the various disciplinary referrals, the Menomonie High School student handbook, minutes of the school board expulsion hearing and an audio tape of the expulsion hearing.

The hearing was held in closed session on January 10, 1996. Michael and his parents appeared at the hearing without counsel. At the hearing the school district administration presented evidence concerning the grounds for expulsion. Michael and his parents were given the opportunity to present evidence, to cross examine all witnesses and to respond to the allegations.

After the hearing, the school board deliberated in closed session. The board found that Michael repeatedly neglected or refused to obey school rules; that Michael engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others; and that Michael endangered the property, health or safety of

an employee or school board member of the school district in which he is enrolled. The school board further found that the interests of the school demand the student's expulsion. The order for expulsion containing the Findings of Fact and Conclusions of Law of the school board, dated January 22, 1996, was mailed separately to Michael and his parents. The order stated Michael was expelled permanently.

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.

In reviewing the record in this case I find that the school district complied with all of the procedural requisites. I therefore affirm this expulsion decision.

I commend the school administration for their efforts in this case. While they had to deal with a serious pattern of misconduct, they continued to be concerned about Michael's educational needs. I encourage all parties to work together to address Michael's future educational needs.

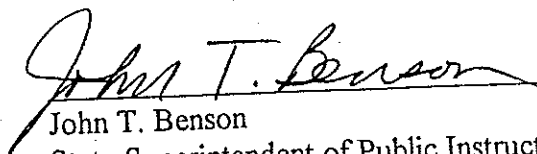
CONCLUSIONS OF LAW

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 Michael R. B. [REDACTED] by the Menomonie Area School District Board of Education is affirmed.

Dated this 9th day of April, 1996.


John T. Benson
State Superintendent of Public Instruction