

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

WILLIAM B [REDACTED]

by the Hilbert School District
Board of Education

DECISION AND ORDER
96/97-EX-13

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 December 19, 1996 order of the Hilbert School District Board of Education to expel the above named pupil from the Hilbert School District from December 4, 1996 until the start of the second semester of the 97-98 school year. This appeal was filed by the pupil's parents and was received by the Department of Public Instruction on January 29, 1997.

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 Pupil Expulsion Hearing" signed by the district administrator of the Hilbert School District. The Notice advised that a hearing would be held on December 4, 1996 which could result in the pupil's expulsion from the Hilbert School District. The letter was sent separately to the pupil and his parents by certified mail and was received on November 26, 1996. The Notice alleged that the pupil engaged in conduct while on school grounds that endangered the property, health or safety of others. The Notice specifically alleged that the pupil brought a firearm onto school property during a school activity. Minutes of the school board expulsion hearing, an audio tape of the expulsion hearing and a written statement by the pupil dated 11-12-96 are also part of the record. The pupil's written statement indicates that he took a gun to a school function "for protection".

The hearing was held in closed session on December 4, 1996. The pupil and his mother appeared at the hearing without counsel. At the hearing the school district administration presented evidence concerning the grounds for expulsion. The pupil and his mother were given the opportunity to present evidence, to cross-examine witnesses and to respond to the allegations. At the hearing, the pupil admitted that he brought a .22 caliber pistol to a school athletic event.

After the hearing, the school board deliberated in closed session. The board found the pupil possessed a gun at school on November 9, 1996 which endangered the property, health or safety of others. 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 December 16, 1996, was mailed separately to the pupil and his

parents. Pursuant to the order the pupil was expelled for the remainder of the 1996-97 school year, and the first semester of the 97-98 school year. The order further provided that the pupil or his parents could purchase correspondence courses in the academic areas he would otherwise be taking, that the district would reimburse the parents for the cost of those courses and give academic credit for successful completion of the courses. The district also agreed to pick up the assignments for such courses and administer any tests associated with the courses.

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.*, 199 Wis. 2d 1, 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 Parents' appeal letter and letter dated 3-25-97 objects to the expulsion and describe the extreme penalty and disruption the expulsion represents for the pupil and his family. However, In reviewing the record in this case I find the school district complied with all of the procedural requisites. I am therefore required to affirm this expulsion. I encourage the pupil and his parents in cooperation with the district to continue to work on the correspondence courses and to continue to take advantage of any tutorial service available.

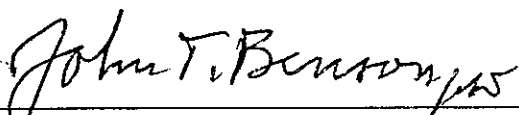
CONCLUSIONS OF LAW

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 William B. [REDACTED] by the Hilbert School District Board of Education is affirmed.

Dated this 26th day of March, 1997.



John T. Benson
State Superintendent of Public Instruction