

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

JAMES D. [REDACTED]

by the Greenfield School District
Board of Education

DECISION AND ORDER
97/98-EX-12

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 14, 1998 order of the Greenfield School District Board of Education to expel the above named pupil from the Greenfield School District for the remainder of the 1997-98 school year. This appeal was filed by the pupil's parents and was received by the Department of Public Instruction on February 2, 1998.

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 Expulsion Hearing" dated January 8, 1998, from the district administrator of the Greenfield School District. The letter advised that a hearing would be held on January 14, 1998 which could result in the pupil's expulsion from the Greenfield School District. The letter was sent separately to the pupil and his parents by regular mail. The letter alleged that the pupil engaged in conduct while at school or under the supervision of school authority which endangered the property, health, or safety of others. The letter specifically alleged that on December 15, 1997, James, a twelve grade student, possessed a weapon (utility knife) in a classroom at Greenfield High. Minutes of the school board expulsion hearing, an audio tape of the expulsion hearing are also part of the record.

The hearing was held in closed session on January 14, 1998. The pupil and his mother appeared at the hearing without counsel. The pupil's father appeared at the hearing by telephone. At the hearing the school district administration presented evidence concerning the grounds for expulsion. The pupil and his parents were given the opportunity to present evidence, to cross-examine witnesses and to respond to the allegations.

After the hearing, the school board deliberated in closed session. The board found the pupil did engage in conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of. 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 14, 1998, was mailed separately to the pupil and his parents. The order stated James was expelled for the remainder of the 1997-98 school year.

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 appeal letter in this case raises one issue which requires consideration. The parents feel that expulsion for the period ordered by the board was too harsh. In support of their argument, the parents reiterate the arguments they made at the expulsion hearing. It has

repeatedly been held that the decision to expel a pupil and a determination of the length of the expulsion are both within the discretion of the school board as long as the board complies with the procedural requirements set out at sec. 120.13(1)(c) Wis. Stats. *Nathaniel S. v. Wausau School District*, Decision and Order No. 350 (March 25, 1998); *Troy Y v. Burlington School District Board of Education*, Decision and Order No. 309 (January 21, 1997); *Tony R. v. Lake Geneva Joint No. 1 School District Board of Education*, Decision and Order No. 294 (June 24, 1996); *Brandon H. v. DeSoto Area School District Board of Education*, Decision and Order No. 206 (May 3, 1993).

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

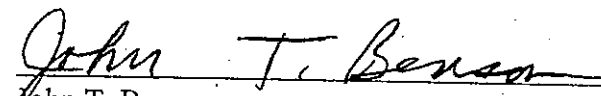
CONCLUSIONS OF LAW

Based upon my review of the record in this case and the findings set out above, I conclude that the school board complied/did not comply with all of the procedural requirements of sec. 120.13(1)(c), Wis. Stats.

ORDER

IT IS THEREFORE ORDERED that the expulsion of James D. [REDACTED] by the Greenfield School District Board of Education is affirmed.

Dated this 1st day of April, 1998.



John T. Benson
State Superintendent of Public Instruction