

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of Kimberly S. by Milton School District Board of Education</p>	<p>DECISION AND ORDER Appeal No.: 02-EX02</p>
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NATURE OF THE APPEAL

This is an appeal to the State Superintendent of Public Instruction pursuant to Wis. Stats. § 120.13(1)(c) from the order of the Milton School District Board of Education to expel the above-named pupil from the Milton School District. This appeal was filed by the pupil and received by the Department of Public Instruction on January 10, 2002.

In accordance with the provisions of Wis. Adm. Code § PI 1.04(5), 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 § 120.13(1)(c). 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

On January 10, 2002, the Department of Public Instruction sent a letter to the pupil's parents and the District Administrator of Milton School District advising them of the appeal and

procedures to be followed. By letter dated February 4, 2002, Attorney Robert G. Krohn, representing the Milton School District Board of Education, informed the department that the school board did not provide appropriate notice of the expulsion hearing. Therefore, the board voted on November 8, 2001 to rescind the expulsion order. The board indicated that it would proceed with a new expulsion hearing and follow the required procedures.¹

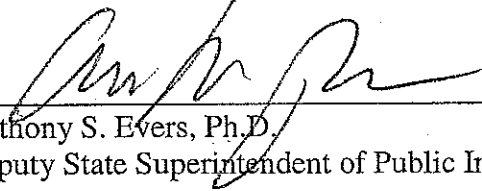
CONCLUSIONS OF LAW

Based upon my review of the record in this case and the findings set out above, I conclude because the expulsion has been rescinded and the appeal is moot. Therefore, this appeal is dismissed.

ORDER

IT IS THEREFORE ORDERED that the expulsion of Kimberly S _____ by the Milton School District Board of Education is dismissed.

Dated this 6th day of March, 2002



Anthony S. Evers, Ph.D.
Deputy State Superintendent of Public Instruction

¹ In the appeal letter, the only issue raised concerns the fairness and harshness of the expulsion. For the parties' reference, the state superintendent's review of that issue is very limited. Since the authority to "approve, reverse or modify the decision" was conferred upon the state superintendent by 1987 Wis. Act 88, § 3, the state superintendent has consistently declined to modify the length of expulsions. *David D. v. Central High School District of Westosha Board of Education*, Decision and Order No. 429 (January 25, 2001); *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).