

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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| <p>In the Matter of the Expulsion of</p> <p>Akram A</p> <p>by Beloit School District Board of Education</p> | <p>DECISION AND ORDER</p> <p>Appeal No.: 02-EX 09</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 Beloit School District Board of Education to expel the above-named ten year old pupil from the Beloit School District. This appeal was filed by the pupil and received by the Department of Public Instruction on February 21, 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

The record contains a letter entitled "Notice of Expulsion Hearing," dated January 2, 2002, from the pre-hearing officer for the Beloit School District. The letter advised a hearing

would be held on January 8, 2002 before a hearing officer that could result in the pupil's expulsion from the Beloit School District through the remainder of the 2001-2002 school year. The letter was sent separately to the pupil and his parents by certified 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 13, 2001 Akram had a knife at school and that he threatened another student.

The hearing was held in closed session on January 8, 2002. The pupil and his parents appeared at the hearing without counsel. 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 hearing officer issued a written recommended order of expulsion. The hearing officer found that the pupil brought a folding knife to school and that he opened the knife and threatened another student. The hearing officer also found that Akram did this after the other student had pushed Akram's head against the outside wall of the school. The hearing officer concluded that Akram 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 the interests of the school demand the student's expulsion. After receipt of the hearing officer's written recommendation for expulsion, the Beloit School District Board of Education met and affirmed the hearing officer's recommendation. A letter informing the pupil and his parents of the decision and a copy of the hearing officer's order was mailed separately to the pupil and his parents. The order stated the pupil was expelled through remainder of the 2001-2002 school year. A videotape of the hearing is part of the record.

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 § 120.13(1)(c), which establishes certain categories of offenses that may be the basis for an expulsion and sets out specific procedures that 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 § 120.13(1)(c). 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 pupil's parent filed an appeal letter alleging that there was insufficient evidence to support the finding that Akram's behavior endangered others.¹ The parents state that Akram

¹ The parents also address complaints related to the timing and kind of notification they received concerning Akram's suspension from school and referral to the police. For example, they are concerned because the school

found the knife on his way to school and put it in his pocket. The parents stress the fact that Akram was being beaten by the student who the district alleges Akram threatened with the knife. The hearing officer considered this information when he made his findings and recommendation.

It has been repeatedly held that arguments concerning the sufficiency of the evidence are generally beyond the scope of review. *Leo P. v. Whitewater Unified School District*, Decision and Order No. 351 (March 31, 1998); *Brent S. v. Mondovi School District Board of Education*, Decision and Order No. 290 (May 23, 1996); *Brad A. v. Boyceville Community School District Board of Education*, Decision and Order No. 233 (June 29, 1994); and *Taiwan O. W. v. Kenosha Unified School District Board of Education*, Decision and Order No. 186 (April 7, 1992).

Further, a school board's findings will be upheld if any reasonable view of the evidence sustains them. *Leo P. v. Whitewater Unified School District*, Decision and Order No. 351 (March 31, 1998); *Daniel A. v. Mauston School District Board of Education*, Decision and Order No. 324 (May 8, 1997); *Courtney R. v. Germantown School District Board of Education*, Decision and Order No. 278 (March 21, 1996); and *Michael Ryan H. v. Clinton Community School District Board of Education*, Decision and Order No. 222 (March 10, 1994).

The hearing officer was in the best position to resolve any conflicts in testimony or interpretation of the facts. It is within the hearing officer's discretion to give weight to the evidence and arguments, as it deemed appropriate and to judge the credibility of witnesses. See e.g. *State ex rel. DeLuca v. Common Council*, 72 Wis. 2d 672, 242 N.W. 2d 689 (1976); *State ex rel. Wasilewski v. Board of School Directors*, 14 Wis. 2d 243, 111 N.W. 2d 198 (1961). See also *Jeremy B. v. Waukesha School District Board of Education*, Decision and Order 395 (August 16,

originally informed them that Akram would be suspended for 2-5 days and then told them that the police would be investigating. Then, the parents were informed by letter that Akram was arrested. It is not unusual for the nature of the investigation and the districts response to change as more facts become known. Furthermore, these complaints do not relate to the required expulsion procedures; therefore, they are not relevant to this appeal.

1999); *Tracy M. v. Random Lake School District Board of Education*, Decision and Order No. 244 (January 11, 1995); and *Kathleen W. v. Tri-County Area School District Board of Education*, Decision and Order No. 130 (May 10, 1985).

A reasonable view of the evidence supports the hearing officer's conclusion that Akram possessed a knife at school and that he threatened another student with the knife. Furthermore, his conclusion that this conduct satisfies the grounds for expulsion is also supported.

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

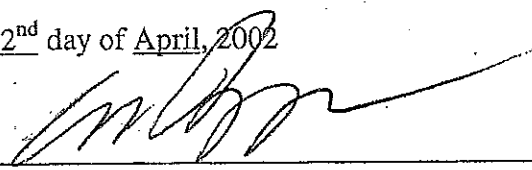
CONCLUSIONS OF LAW

Based upon my review of the record in this case and the findings set out above, I conclude that the school board complied with all of the procedural requirements of § 120.13(1)(c).

ORDER

IT IS THEREFORE ORDERED that the expulsion of Akram A. by the Beloit School District Board of Education is affirmed.

Dated this 22nd day of April, 2002



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