

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of Richard B. by Hartford Joint No. 1 School District Board of Education</p>	<p>DECISION AND ORDER Appeal No.: 02-EX27</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 Hartford Joint No. 1 School District Board of Education to expel the above-named pupil from the Hartford Joint No. 1 School District. This appeal was filed by the pupil and received by the Department of Public Instruction on November 6, 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 notifying the pupil of an expulsion hearing, dated October 15, 2002, from the district administrator of the Hartford Joint No. 1 School District. The letter

advised a hearing would be held on October 21, 2002 that could result in the pupil's expulsion from the Hartford Joint No. 1 School District . The letter was sent separately to the pupil and his parents by certified mail and was hand delivered to the pupil and his mother. 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 between October 1 and October 4, while on school property and in Central Middle School, Richard transferred and/or had possession of marijuana.

The hearing was held on October 21, 2002. Neither the pupil nor his parents appeared at the hearing. At the hearing, the school district administration presented evidence concerning the grounds for expulsion.

After the hearing, the school board deliberated. 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 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 October 24, 2002, was mailed separately to the pupil and his parents. The order stated the pupil was expelled through through the 2004-05 school year. A transcript 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 appeal letter in this case alleges that the procedural requirements were not followed. However, the letter does not identify any specific procedural error.

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

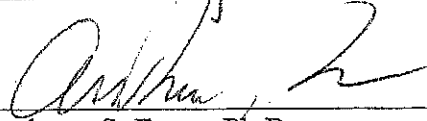
CONCLUSIONS OF LAW

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

ORDER

IT IS THEREFORE ORDERED that the expulsion of Richard B. [redacted] by the Hartford
Joint No. 1 School District Board of Education is affirmed.

Dated this 3rd day of January, 2003



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