

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of</p> <p>V. M.</p> <p>by Milwaukee Public Schools Board of School Directors</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 05 EX 28</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 Milwaukee Public Schools Board of School Directors to expel the above-named pupil from the Milwaukee Public Schools. This appeal was filed by the pupil and received by the Department of Public Instruction on November 3, 2005.

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 October 13, 2005, from the student services coordinator for the Milwaukee Public Schools. The letter

advised a hearing would be held on October 25, 2005 that could result in the pupil's expulsion from the Milwaukee Public Schools. The letter was sent separately to the pupil and her parents by messenger service. 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 September 27, 2005 she battered another student at South Division High School.

The hearing was held by an independent hearing panel on October 25, 2005. The pupil and her parent appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and her parent were given the opportunity to present evidence, to cross-examine witnesses, and to respond to the allegations.

After the hearing, the panel deliberated and found that 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 panel 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 independent hearing panel, dated October 5, 2005, was mailed separately to the pupil and her parent. The order stated the pupil was expelled through October 26, 2006. A transcript of the hearing is part of the record.

On November 10, the Milwaukee Public Schools Board of School Directors met and adopted the independent hearing panel's findings. Notice of the board's action was sent, separately, to the pupil and her parent.

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, filed by the pupil's mother, does not raise any issues. Upon a review of the record, I find the school district did comply with all of the procedural requisites. I, therefore, affirm this expulsion.

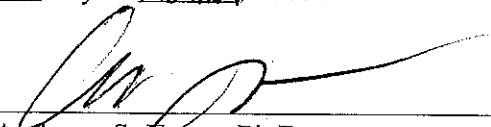
CONCLUSIONS OF LAW

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 V. M. by the Milwaukee Public Schools Board of School Directors is affirmed.

Dated this 21st day of December 2005.



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