

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of</p> <p>T B</p> <p>by Slinger School District Board of Education</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 05 EX 32</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 Slinger School District Board of Education to expel the above-named pupil from the Slinger School District. This appeal was filed by the pupil and received by the Department of Public Instruction on December 16, 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 November 1, 2005, from administration at the Slinger School District. The letter advised a hearing would be held on November 7, 2005 that could result in the pupil's expulsion from the Slinger School District. The letter was delivered separately to the pupil and her parents. 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 the pupil delivered a controlled substance at school on two occasions. A pre-expulsion meeting was held on October 26, 2005 with the pupil and her parents to discuss the allegations.

The hearing was held in closed session on November 7, 2005. Neither the pupil nor her parents appeared at the hearing. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and her 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 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 November 14, 2005, was mailed separately to the pupil and her parents. The order stated the pupil was expelled through 2008-09 school year with an opportunity for early readmission at the beginning of the 2007-08 school year. Minutes of the school board expulsion hearing and an audiotape of the expulsion hearing are 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 was filed by the pupil. She claims that she did not engage in the conduct alleged. The pupil did not appear at the expulsion hearing and present this information to the board.

The pupil is alleging that there are insufficient facts to support the board's decision to expel. 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 board was presented with information to support its findings. The pupil did not present any information to the board to dispute this. Therefore, there is no basis to overturn the board's findings.

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.

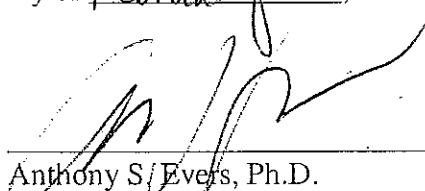
### CONCLUSIONS OF LAW

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 T. B. by the Slinger School District Board of Education is affirmed.

Dated this 10<sup>th</sup> day of February, 2006.



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