

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

C. T.

by the Milwaukee Public Schools

DECISION AND ORDER

Appeal No.: 14-EX-03

NATURE OF THE APPEAL

This is an appeal to the State Superintendent of Public Instruction pursuant to Wis. Stat. § 120.13(1)(c) from the order of the Milwaukee Board of School Directors to expel the above-named pupil (hereinafter "C.T.") from the Milwaukee Public Schools. This appeal was filed by C.T. and received by the Department of Public Instruction on April 8, 2014. In accordance with the provisions of Wis. Admin. Code § PI 1.04(5), this Decision and Order is confined to a review of the record of the school board hearing.

FINDINGS OF FACT

On February 10, 2014, C.T. entered South Division High School while serving a suspension for fighting. A school administrator informed C.T. that she was not permitted to be at the school due to the suspension. Despite being given a bus ticket, C.T. refused to leave. As a result, school safety personnel were called to assist with the situation. While the safety personnel attempted to remove C.T., she knocked items off of a desk and blocked a door. In response, additional school safety personnel became involved and the school called the police. A

confrontation ensued, with C.T. spitting in a safety assistant's face, making verbal threats to school staff, and kicking trash cans. C.T. was eventually restrained by numerous school safety assistants. However, she still managed to scratch one assistant, which caused bleeding. As a result of her actions, C.T. was suspended from school and the police issued her a citation for disorderly conduct.

School administrators moved quickly to expel C.T. The record contains a letter entitled "Notice of Expulsion Hearing," dated February 18, 2014, from the Milwaukee Public Schools Office of Family & Student Services. The letter advised that a hearing would be held on February 25, 2014, that could result in C.T.'s expulsion from the Milwaukee Public Schools. The letter was sent separately to C.T. and C.T.'s guardian. The letter alleged that C.T. 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 C.T. assaulted a school staff member on February 10, 2014.

The hearing was held in closed session on February 25, 2014. Neither the pupil nor her guardian were present at the hearing. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The independent hearing officer found that C.T. 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 independent hearing officer further found that the interests of the school demand C.T.'s expulsion. The order for expulsion containing the findings of fact and conclusions of law of the school board, dated February 25, 2014, was mailed separately to the pupil and her group home. The order stated C.T. was expelled through February 28, 2015. By a letter dated March 14, 2014, the Office of Family

Services notified C.T. and her guardian that the Milwaukee Public School's Board of School Directors acted on the independent hearing officer's decision and, as a result, C.T. was expelled.

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 Wis. Stat. §§ 119.25 and 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 expulsion decision, the state superintendent must 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. Madison Metropolitan School District v. Wis. D.P.I., 199 Wis. 2d 1, 543 N.W. 2d 843 (1995).

The appeal letter in this case raises several issues which require consideration. First, C.T. appeals the length of her expulsion. Pursuant to Wis. Stat. § 120.13(c)3, the state superintendent has the authority to modify an expulsion decision. However, state superintendents have consistently held that, absent extraordinary circumstances, it is inappropriate to second-guess a school board's decision. *See e.g., R.C. by the Kenosha School Dist.*, (632) Oct. 3, 2008. No such circumstances exist here. C.T. verbally threatened and attacked school personnel, including causing one safety assistant to bleed. She also spit in the face of a safety assistant. This is conduct that clearly warrants expulsion. *See Vadim S. by the Madison Metro. School Dist.*,

(368) July 29, 1998 (Shoving security officer warranted expulsion). Further, C.T.'s expulsion is for approximately one year. I do not find that this is unreasonable considering the severity of C.T.'s conduct.

Second, C.T. appeals the independent hearing officer's determination that educational services should not be provided to C.T. during her expulsion. While it may choose to do so, a school board is not required to provide educational services to a non-special education pupil who is expelled. Madison Metro. Sch. Dist. v. Circuit Court for Dane Cnty., 2011 WI 72, ¶ 8, 336 Wis. 2d 95, 117. Therefore, it is not reversible error for the school board to decline to provide C.T. with educational services during her 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 Wis. Stat. §120.13(1)(c).

ORDER

IT IS THEREFORE ORDERED that the expulsion of C [REDACTED] T [REDACTED] by the Milwaukee Public Schools is upheld.

Dated this 22nd day of May 2014



Michael J. Thompson, Ph.D.
Deputy State Superintendent of Public Instruction

APPEAL RIGHTS

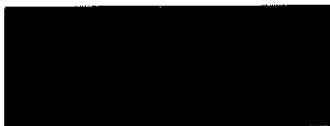
Wis. Stats. § 120.13(1)(c) specifies that an appeal from this Decision and Order may be taken within 30 days to the circuit court of the county in which the school is located. Strict compliance with the service provisions of § 227.53 is required. In any such appeal, the State Superintendent of Public Instruction shall be named as respondent.

PARTIES TO THIS APPEAL ARE:



Gregory Thornton
District Administrator
Milwaukee Board of School Directors School District
PO Box 2181
Milwaukee, WI 53201-2181

COPIES MAILED TO:



Patricia Gill
Executive Director, Office of Family and Student Services
5225 West Vliet Street
PO Box 2181
Milwaukee WI 53201-2181