

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

L [REDACTED] W [REDACTED]

by Iowa-Grant School District
Board of Education

DECISION AND ORDER

Appeal No.: 14-EX-06

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 Iowa-Grant School District Board of Education to expel the above-named pupil from the Iowa-Grant School District. This appeal was filed by the pupil's mother and received by the Department of Public Instruction on June 30, 2014.

In accordance with Wis. Admin. 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 Wis. Stat. § 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

Between May 12, 2014 and May 14, 2014, the pupil participated in a school-sponsored field trip to Wyalusing State Park. During the nights of May 12, 2014 and May 13, 2014, several

male students assaulted another student who shared a cabin with them. While the victim was sleeping, the assailants removed the victim's pants, slapped the victim's buttocks, and placed their genitals on the victim's head. The pupil was present for both assaults and actively participated in the second night's assault by placing his genitals on the victim's head.

On May 16, 2014, the school district was informed of the assaults. The school district promptly reported the assaults to local law enforcement. Both the school district and the Grant County Sheriff's Department conducted thorough investigations. While being questioned by law enforcement, the pupil admitted to assaulting the victim.

The record contains a letter entitled "Notice of Expulsion Hearing," dated May 20, 2014, from the district administrator of the Iowa-Grant School District. The letter advised that a hearing would be held on June 5, 2014, that could result in the pupil's expulsion from the Iowa-Grant School District up to the pupil's 21st birthday. 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: "The expulsion proceeding is based upon [the pupil's] conduct on May 12 and May 13, 2014, while on a school-sponsored field trip to Wyalusing State Park, when he assaulted another student enrolled in school in the District."¹

The hearing was held in closed session on June 5, 2014. The pupil, his parents, and step-father appeared at the hearing with 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.

¹ The notice erroneously referenced another student's name. During the hearing, the pupil's attorney and the school district agreed that this scrivener's error did not prejudice the pupil. In lieu of adjourning the hearing and issuing a corrected hearing notice, the parties agreed to simply correct the error.

After the hearing, the school board deliberated in closed session. The board 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 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 June 9, 2014, was mailed separately to the pupil and his parents. The order stated the pupil was expelled through the first semester of the 2014-15 school year. The order also provided the pupil with the possibility of early readmission if the pupil participated in counseling, submitted a letter of apology, completed community service, met with the school counselor, and made adequate academic progress.

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 appellant raises only one issue for consideration: whether the school district's notice of expulsion hearing adequately stated "the particulars of the pupil's conduct upon which the expulsion is based," as required by Wis. Stat. § 120.13(1)(c)4.a. The appellant argues that the district's notice was inadequate because the word "assaulted," as used in the notice, is too broad of a term to provide adequate notice. I disagree.

Proper notice must inform the student of the time frame during which the misconduct occurred, where the misconduct occurred, and a description of the misconduct to be considered. Ryan C. K. by the Pewaukee School Dist., (439) July 24, 2001. The purpose of the notice requirement is to ensure that a student facing expulsion is sufficiently apprised of the charges so as to be able to defend against them. Jennifer P. by the Waukesha School Dist., (226) April 18, 1994. The school district's notice clearly informed the pupil of the misconduct that occurred (i.e., assaulting another student), where the misconduct occurred (i.e., Wyalusing State Park), and when the conduct occurred (i.e., during a school-sponsored field trip on May 12 and May 13, 2014). Dictionaries consistently define "assault" to mean an attack.² As such, the pupil had clear notice that the expulsion was based upon his attack of the victim during the field trip at Wyalusing State Park.

CONCLUSIONS OF LAW

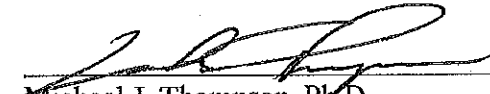
Based upon my review of the record in this case and the findings set out above, I conclude that the school board complied with all of the procedural requirements of Wis. Stat. §120.13(1)(c).

² Merriam-Webster defines "assault" as "a violent physical or verbal attack. Black's Law Dictionary defines the popular usage of "assault" as "any attack." The Oxford Dictionary defines "assault" as "a physical attack."

ORDER

IT IS THEREFORE ORDERED that the expulsion of L [REDACTED] W [REDACTED] by the Iowa-Grant School District Board of Education is affirmed.

Dated this 19th day of August 2014



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