

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

---

In the Matter of the Expulsion of

N ■ B ■

by Pulaski Community School District  
Board of Education

DECISION AND ORDER

Appeal No.: 15-EX-10

---

**NATURE OF THE APPEAL**

This is an appeal to the State Superintendent of Public Instruction (“State Superintendent”) pursuant to Wis. Stat. § 120.13(1)(c) from the order of the Pulaski Community School District Board of Education (“School Board”) to expel the above-named pupil from the Pulaski Community School District (“School District”). This appeal was filed by the pupil’s mother (“Appellant”) and received by the Department of Public Instruction on November 27, 2016.

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. 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 demands that the pupil be expelled.

## FINDINGS OF FACT

This is second appeal related to the pupil's expulsion. The pupil was originally expelled on June 9, 2015. By an order dated September 25, 2015, the State Superintendent reversed that expulsion decision because the School District's notice contained incorrect dates for the pupil's misconduct. As a result, the notice did not provide the statutorily-required "particulars of the conduct." *See N.B. by the Pulaski Community School District, (730) Sept. 25, 2015.*

On October 14, 2015, the pupil and his parents received a second "Notice of Expulsion Hearing" ("Notice") from the School District. Unlike the notice at issue in the previous appeal, the Notice accurately describes the dates in which the underlying conduct occurred. Specifically, the Notice alleges that the pupil made threatening comments to other students over a two week period in May 2015. The Notice also includes details on the pupil's comments (e.g., "Don't come to school on the last day. I am going to shoot up the high school.") and the School District's investigation. In addition to containing the particulars of the conduct, the Notice also contains the other statutory notification requirements.

The expulsion hearing was held in closed session on October 21, 2015. At the hearing, the School District presented its evidence for expelling the pupil. The pupil and his parent, who appeared without counsel, were given the opportunity to present evidence, question witnesses, and respond to the School District's allegations. The School 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 pupil's expulsion. The order for expulsion containing the findings of fact and conclusions of law of the school board, dated October 26, 2015, was mailed separately to the pupil

and his parents. The order stated the pupil was expelled through to the pupil's 21st birthday. Minutes and a digital recording of the expulsion hearing are part of the record.

### DISCUSSION

In the current appeal, the Appellant raises two issues which require consideration. First, the Appellant argues that the Notice did not properly state the particulars of the underlying conduct because the Notice contained a timeframe for which the pupil's comments occurred, not the exact dates. I disagree. Proper notice does not require exact dates. Instead, the student must be informed of "the time frame during which the misconduct occurred, where the misconduct occurred, and a description of the conduct to be considered." *L.W. v. Iowa-Grant School District*, (720) August 19, 2014 (Emphasis added). For a variety of reasons, it can often be difficult, or even impossible, for school officials to determine exactly when misconduct occurs. For example, vandalism might occur sometime over a weekend and drug dealing might occur over several weeks. Here, the pupil made multiple comments to multiple students. As such, it is entirely reasonable for the School District to use a time frame in the Notice, not exact dates.

Second, the Appellant argues that the School Board impermissibly based its decision on the pupil's prior, unrelated misconduct. While the pupil's prior misconduct was discussed in the expulsion hearing, the record demonstrates that the pupil's threatening comments were the basis for the pupil's expulsion. For example, the School Board's Findings of Fact focus solely on the pupil's threatening comments. Further, as long as proper notice is provided, it is permissible for a school board to use a student's disciplinary and academic records when determining the length of an expulsion. *See Leo P. by Whitewater Unified School District*, (351) March 31, 1998; Wis. Stat. § 118.125. Therefore, there is no reversible error.

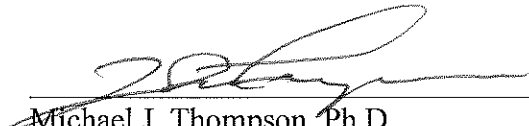
**CONCLUSIONS OF LAW**

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 N [REDACTED] B [REDACTED] by the Pulaski Community School District Board of Education is AFFIRMED.

Dated this 26<sup>th</sup> day of January 2015

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

**APPEAL RIGHTS**

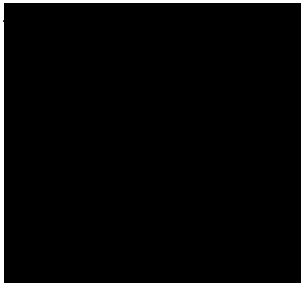
Wis. Stat. § 120.13(1)(c) specifies that an appeal from this Decision and Order may be taken within 30 days to the circuit court of the county in which the school is located. Strict compliance with the service provisions of Wis. Stat. § 227.53 is required. In any such appeal, the State Superintendent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

**PARTIES TO THIS APPEAL ARE:**



Milt Thompson  
Pulaski Community School District  
PO Box 36  
Pulaski, WI 54162

**COPIES MAILED TO:**



Geoffrey Lacy  
Strang, Pattenon, Renning, Lewis & Lacy  
205 Doty St.  
Green Bay, WI 54301