

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the Matter of the Expulsion of

A [REDACTED] H [REDACTED]

by Independence School District  
Board of Education

DECISION AND ORDER

Appeal No.: 16-EX-02

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**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 Independence School District Board of Education to expel the above-named pupil from the Independence School District. This appeal was filed by the pupil's father ("Appellant") and received by the Department of Public Instruction on March 21, 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 district demands that the student be expelled.

**FINDINGS OF FACT**

The record contains a letter entitled "Notice of Expulsion Hearing." The letter advised that a hearing would be held on February 8, 2016, that could result in the pupil's expulsion from the

school district through to the pupil's 21<sup>st</sup> 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 that the pupil purchased and possessed THC-laced candy while at school.

The hearing was held in closed session on February 8, 2016. The pupil and his parents appeared at the hearing without 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.

After the hearing, the school board deliberated in closed session. 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 demanded the pupil's expulsion. The order for expulsion containing the findings of fact and conclusions of law of the school board, dated February 15, 2016, was mailed separately to the pupil and his parents. The order stated the pupil was expelled through the pupil's 21<sup>st</sup> birthday. The order also permitted the pupil to earn his remaining high school credits through the school district's online educational services. Minutes and a digital recording of the expulsion hearing are part of the record.

### **DISCUSSION**

The appellant raises two issues which requires consideration. The appellant first argues that expulsion is "exceptionally harsh for a first offence." The state superintendent has the statutory authority to "approve, reverse, or modify" an expulsion decision. Wis. Stat. § 120.13(1)(c)4.i. While the school board expelled the pupil through his 21<sup>st</sup> birthday, it also permitted the pupil to

earn his high school diploma, at the district's expense, using online classes. Further, the state superintendent has consistently held that it would be inappropriate, absent an extraordinary circumstance or a violation of procedural requirements, to second-guess the appropriateness of a school board's determination. *A.M. by the West Allis-West Milwaukee School Dist.*, (703) February 18, 2013. In reviewing this case, I do not see an extraordinary circumstance or procedural violation that warrants modifying the pupil's expulsion period.

Second, the appellant alleges that the school district treated the pupil differently from a classmate. Specifically, the appellant alleges that a classmate received only a 10 day suspension for identical conduct. Because every student's situation is different, the disciplinary treatment of the classmate is not relevant to my review of the pupil's expulsion. *J.H. by West Bend School District*, (721) April 18, 2014. Further, my review is limited to reviewing the record of the expulsion hearing. Wis. Admin. Code § PI 1.04(5). There is no evidence in the record regarding the classmate's treatment. Therefore, the appellant's allegations are not grounds for reversal.


### 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 A [REDACTED] H [REDACTED] by the Independence School District Board of Education is affirmed.

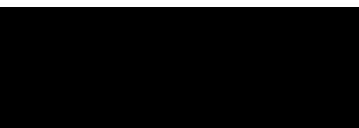
Dated this 25<sup>th</sup> day of April 2016

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

**APPEAL RIGHTS**

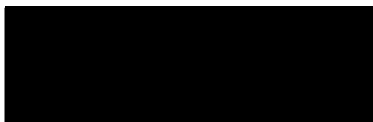
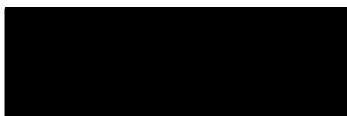
Wis. Stat. § 120.13(1)(c) specifies that an appeal from this Decision and Order may be taken within 30 days to the circuit court of the county in which the school is located. Strict compliance with the service provisions of Wis. Stat. § 227.53 is required. In any such appeal, the State Superintendent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

**PARTIES TO THIS APPEAL ARE:**



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