

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

T ■■■ B ■■■

by Westfield School District
Board of Education

DECISION AND ORDER

Appeal No.: 16-EX-11

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 Westfield School District Board of Education to expel the above-named pupil from the Westfield School District. This appeal was filed by the pupil's mother ("Appellant") and received by the Department of Public Instruction on August 22, 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 pupil's expulsion is the result of an incident on December 16, 2015, when the pupil brought marijuana to school and allegedly offered to sell it to other students. The record contains a letter entitled "Notice of Expulsion Hearing," dated December 21, 2015. The letter advised that a hearing would be held on January 6, 2016, that could result in the pupil's expulsion from the Westfield School District through pupil's 21st birthday. The letter was sent separately to the pupil and his father 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 pupil was found in possession of marijuana on school grounds and had allegedly offered to sell it to other students.

The hearing was held in closed session on January 16, 2016. The pupil, his grandmother, and great aunt appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and his family members were given the opportunity to present evidence, to cross-examine witnesses, and to respond to the allegations.

The school board deliberated the recommendation in closed session. The school board found that the interests of the school demand the student's expulsion. The order for expulsion containing the findings of fact and Order of the school board, dated January 6, 2016, was mailed separately to the pupil and his father. The order stated the pupil was expelled through March 18, 2022. The order permitted the pupil conditional readmission for the 2016-17 school year if the pupil received tutoring off-site for the remainder of the 2015-16 school year. A transcript of the expulsion hearing is part of the record.

DISCUSSION

There are two issues raised by the appellant. First, the appellant alleges she did not receive proper notice of the expulsion hearing. Second, the appellant argues that the pupil could not comply with the early reinstatement conditions because she had removed the pupil from the Westfield School District. Neither argument in this case is persuasive of a procedural deficiency which would allow the State Superintendent to overturn the decision of the school board.

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. The failure to notify the mother of the expulsion hearing would have been a violation of statutory procedures if the district had knowledge of her existence, legal status with regard to the pupil, or address. The district avers the pupil's father enrolled him in school and did not list the mother anywhere. The district cannot guess who a pupil's parent is. It has been held that it is reasonable for the district to rely on the information provided to it in the pupil record and registration information to determine the parent or guardian. See D.P. by the Burlington Area School Dist. (554) July 29, 2005.

The second issue raised is that the pupil could not have complied with the conditions of early reinstatement because the mother removed the pupil from the school district. Early reinstatement is allowed by law under Wis. Stat. § 120.13(1)(h). The district can put conditions on reinstatement related to the reason for expulsion. D.H. by the New Richmond School Dist., (549) June 30, 2005; Barry L. W. by the Kenosha Unified School Dist., (220) Mar. 7, 1994. The school district was not required to offer early reinstatement. The fact that the pupil did not choose

to avail himself of the opportunity for reinstatement, no matter what the reason, does not mean that the conditions are invalid.

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 T [REDACTED] B [REDACTED] by the Westfield School District Board of Education is upheld.

Dated this 27th day of October, 2016



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:

T [REDACTED] B [REDACTED]
[REDACTED]

S [REDACTED] R [REDACTED]
[REDACTED]

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