

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of</p> <p>H [REDACTED] S [REDACTED]</p> <p>by Webster School District Board of Education</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 16-EX-13</p>
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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 Webster School District Board of Education to expel the above-named pupil from the Webster School District. This appeal was filed by the pupil's mother ("Appellant") and received by the Department of Public Instruction on November 4, 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," dated September 7, 2016. The letter advised that a hearing would be held on September 14, 2016, that could result in

the pupil's expulsion from the Webster School District through 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] alleged acts which include possession and distribution of marijuana on school property on August 31, 2016."

The hearing was held in closed session on September 14, 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 demand the student's expulsion. The order for expulsion containing the findings of fact and conclusions of law of the school board, dated September 15, 2016, was mailed separately to the pupil and his parents. The order stated the pupil was expelled through pupil's 21st birthday. The order also permitted early reinstatement by the end of the 2017-18 school year if the pupil complied with five conditions. Minutes of the school board expulsion hearing and a digital recording of the expulsion hearing are part of the record.

DISCUSSION

The appellant raises three arguments which require consideration. The appellant first argues that the expulsion is defective because the pupil was punished more severely than the other students who were involved in the drug sale. Student disciplinary issues are high individualized

and, as a result, no two students are similarly situated. E.C. by the Oconomowoc Area Sch. Dist., (737) June 14, 2016, and *aff'd* Ty Clinton v. SPI, Waukesha County Case No. 16-CV-1256. Because no two students' situations are identical, school boards are not required to treat students the same, even if they do engage in similar conduct. Here, multiple students were involved in the sale and purchase of marijuana. However, it was the pupil who sold the marijuana. Even if the school board did treat the pupil differently than the other students, it is entirely reasonable for the school board to punish someone who sells marijuana more severely than someone who only possesses marijuana.

The appellant next argues that the police treated the pupil and his mother differently than the other students. The school board is not responsible for the police department's investigation. Even if there were problems with the police department's investigation, the school district conducted its own investigation. The pupil's expulsion is based upon the school district's investigation. As such, any alleged irregularities with the police department's investigation have no bearing on the pupil's expulsion or this appeal.

The appellant also argues that length of the expulsion is too harsh. There is no doubt that an expulsion has a significant negative impact on a child's education. While the state superintendent has the statutory authority to modify the term of expulsions, this is only done in extraordinary circumstances. No such circumstances exist here. The school board carefully considered the particular facts of the case. Further, the school board provided the pupil with the opportunity to be readmitted early, thus providing the pupil with a second chance. While the appellant complains about the severity of the terms of readmission, the terms appear entirely reasonable considering the pupil's conduct. For example, among other things, the pupil must complete an AODA evaluation and complete 80 hours of community service.

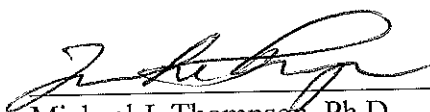
CONCLUSIONS OF LAW

Having reviewed the entire record in this matter, I conclude that the school board complied with all of the procedural requirements in Wis. Stat. § 120.13(1)(c). Further, I do not find any extraordinary circumstances requiring the pupil's expulsion to be modified. Therefore, I affirm the school board's decision to expel the pupil.

ORDER

IT IS THEREFORE ORDERED that the expulsion of H [REDACTED] S [REDACTED] by the Webster Board of Education is affirm.

Dated this 29th day of December 2016

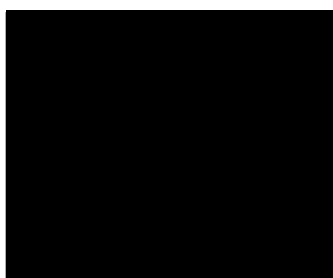


Michael J. Thompson, Ph.D.
Deputy State Superintendent of Public Instruction

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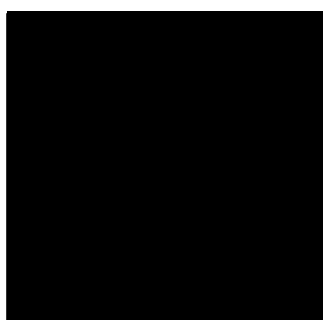
Wis. Stat. § 120.13(1)(c) specifies that an appeal from this Decision and Order may be taken within 30 days to the circuit court of the county in which the school is located. Strict compliance with the service provisions of Wis. Stat. § 227.53 is required. In any such appeal, the State Superintendent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

PARTIES TO THIS APPEAL ARE:



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