

THE STATE OF WISCONSIN
BEFORE
THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of

D [REDACTED] C [REDACTED]

by Shawano School District
Board of Education

DECISION AND ORDER

Appeal No.: 18-EX-01

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 Shawano School District Board of Education to expel the above-named pupil from the Shawano School District. This appeal was filed by the pupil's parent and was received by the Department of Public Instruction on December 18, 2017.

In accordance with the provisions of Wis. Admin. Code § PI .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).

FINDINGS OF FACT

The record contains a letter entitled "Notice of Expulsion Hearing," dated May 18, 2017, from the District Administrator of the Shawano School District. The letter advised that a hearing would be held on June 5, 2017, that could result in the pupil's expulsion from the Shawano School District through 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 authorities which endangered the property, health, or safety of others. The letter specifically alleged that on May 10, 2017, the student verbally and physically attacked/assaulted another student while on school property.

The hearing was held in closed session on June 5, 2017. Neither the pupil nor the pupil's parents appeared at the hearing. At the hearing, the school district administration presented evidence concerning the grounds for expulsion.

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 12, 2017, was mailed separately to the pupil and the pupil's parents. The order stated that the pupil was expelled through his 21st birthday. Minutes of the school board expulsion hearing, exhibits presented during the hearing, and an electronic recording of the expulsion hearing are part of the hearing record.

DISCUSSION

The expulsion statute – Wis. Stat. § 120.13(1)(c) – gives school boards the authority to expel a student when specific substantive standards are met and specific procedures have been followed. *Madison Metro. Sch. Dist. V. Burmaster*, 2006 WI App. 17, ¶ 19, 288 Wis. 2d 771. In reviewing an expulsion decision, the state superintendent must ensure, among other things, 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 interest of the school district demand the pupil's expulsion.

The Appellant raises two issues which require consideration. First, the Appellant argues that the length of the expulsion is too harsh. The state superintendent has held in prior decisions that unless there are exceptional circumstances, the state superintendent will not review whether an expulsion is excessively harsh. *A.M. by the West Allis-West Milwaukee School Dist.*, (703) February 18, 2013. As such, school boards are afforded wide latitude in determining whether an expulsion is an appropriate response to alleged conduct. *T.R. by the Nicolet Sch. Dist. Bd. of Ed.*, (707) December 17, 2013. In reviewing this case, I do not see the extraordinary circumstance that would cause me to modify the pupil's expulsion period.

Second, the Appellant appears to argue that there was an issue with the provision of special education services for the pupil. The state superintendent has determined that an expulsion appeal is generally not the appropriate context within which to challenge a district's application of special education provisions to a particular pupil. Such a challenge is generally beyond the scope of Wis. Stat. § 120.13(1)(c). *R.S. by the Barron Area School Dist.*, (417) June 9, 2000. Therefore, any challenges to the district's special education evaluation procedures may be addressed using special education appeal procedures. The department maintains an extensive library of materials to explain procedures related to special education complaints or appeals. These materials may be accessed at the department's website at <http://dpi.wi.gov/sped/tm-specedtopics.html>. The pupil or his parents may also call the special education team at the Department of Public Instruction to get more information.

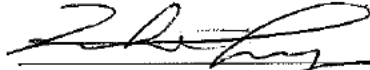
CONCLUSIONS OF LAW

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 D [REDACTED] C [REDACTED] by the Shawano School District Board of Education is affirmed.

Dated this ____ day of February 2018


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:

[REDACTED]

[REDACTED]

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