

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of</p> <p>J [REDACTED] P [REDACTED]</p> <p>by Baraboo School District Board of Education</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 18-EX-05</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 Baraboo School District Board of Education to expel the above-named pupil from the Baraboo School District. The appeal was filed by the pupil and was received by the Department of Public Instruction on March 19, 2018.

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).

FINDINGS OF FACT

The record contains a letter entitled "Notice of Expulsion Hearing," dated January 24, 2018, from the District Administrator of the Baraboo School District. The letter advised that a hearing would be held on February 8, 2018, that could result in the pupil's expulsion from the Baraboo School District through the pupil's 21st birthday. The letter was sent to the pupil 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.

Specifically, the letter alleged that:

On January 18, 2018, [the pupil] was engaged in disruptive behavior at Baraboo High School that interfered with normal school function. The disruptive behavior included use of intimidation and physical force when [the pupil] violently slammed her body into another student on purpose and pushed her into a door frame causing the student's head to hit the door frame. What followed was a disturbance in the hallway that involved [the pupil] yelling so loudly including repeated profanity that teacher from 80 feet away down the hallway exited their classrooms to provide assistance.

The hearing was held in closed session on February 8, 2018. The pupil and her grandparent appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and her grandparent were given the opportunity to present evidence, cross-examine witnesses, and to respond to allegations.

After the hearing, the school board deliberated in closed session. The board found that the pupil did engage in conduct while at school which endangered the health and safety of others at school. 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 February 8, 2018, was mailed to the pupil. The order stated that the pupil was expelled through the pupil's 21st birthday, with the option for conditional reinstatement on the first day of the 2018-19 school year if the pupil meets and abides by several conditions. The order also stated that the district would offer the pupil a form of alternative educational programming for the 2017-2018 school year if the pupil meets and abides by the conditions for early reinstatement.

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. *M.M. by the Shawano Sch. Dist.*, (755) January 24, 2018.

On appeal, the pupil raises a single issue for consideration. The pupil alleges that the Baraboo School District did not have authority to expel the pupil, because the pupil was not enrolled in the district at the time of the incident. There is no dispute that the pupil was enrolled in the Baraboo School District at the beginning of the 2017-2018 school year. Absent evidence to the contrary, the pupil is presumed to remain enrolled in the district for purposes of this expulsion, because "it is the policy of the State of Wisconsin that students cannot drop-out and re-enroll in school at whim." *P.A. by the Janesville Sch. Dist.*, (630) September 4, 2008.

The evidence in the hearing record indicates that the pupil had not withdrawn from the district prior to the incident leading to the pupil's expulsion. District attendance records show that the pupil was absent from school beginning October of 2017. From that time until the date of the incident, the district reached out several times to the pupil to express concerns over her attendance and discuss how to get the pupil on track to graduate. The district testified that it had not received any request for records from any other school district for purposes of transferring the pupil's enrollment. The pupil testified that she had intended to transfer from the Baraboo School District to another district, but had not actually taken necessary steps to do so. The pupil testified that the Baraboo School District considered her an enrolled student at the time of the incident.

On appeal, the pupil raises additional questions of fact as to her enrollment, but this Decision and Order is confined to a review of the hearing record. Wis. Admin. Code § PI 1.04(5).

There is insufficient evidence in the hearing record to conclude that the pupil was no longer enrolled at the Baraboo School District at the time of the incident. There are no other issues raised on appeal.

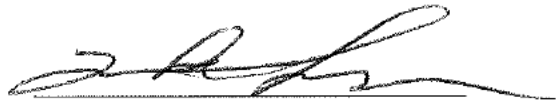
CONCLUSIONS OF LAW

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 J [REDACTED] P [REDACTED] by the Baraboo School District Board of Education is affirmed.

Dated this 21 day of May, 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:



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