

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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| <p>In the Matter of the Expulsion of</p> <p>J. [REDACTED] S. [REDACTED]</p> <p>by Wautoma Area School District Board of Education</p> | <p>DECISION AND ORDER</p> <p>Appeal No.: 18-EX-14</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 Wautoma Area School District Board of Education to expel the above-named pupil from the Wautoma Area School District. This appeal was filed by the pupil and received by the Department of Public Instruction on June 13, 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 § 120.13(1)(c).

FINDINGS OF FACT

The record contains a letter entitled "Notice of Suspension and Expulsion Hearing," dated May 15, 2018, from the district administrator of the Wautoma Area School District. The letter advised that a hearing would be held on May 23, 2018, that could result in the pupil's expulsion from the Wautoma Area School District through the pupil's 21st birthday. The letter was sent separately to the pupil and his parents by certified and regular 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 himself or others at school. The letter specifically alleged that the pupil and another student were overheard talking about planning a school shooting, including statements about shooting two students and two staff members.

The hearing was held in closed session on May 23, 2018. The pupil, his parents, and the pupil's uncle 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 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 May 23, 2018, stated the pupil was expelled through June 15, 2024, with the possibility to apply for early reinstatement on August 1, 2019. Minutes of the school board expulsion hearing and a partial audiotape of the expulsion hearing are part of the 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 appeal letter raises one issue on appeal – that the evidence does not support the school board's findings of fact as to the statutory grounds for expulsion. On appeal, a school board's findings will be upheld if any reasonable view of the evidence sustains them. *T.S. by the West Allis-West Milwaukee School Dist.*, (684) May 20, 2011; *L.P. by the Whitewater Unified School Dist.*, (351) Mar. 31, 1998.

In this case, the school board found that the student engaged in conduct that endangered the health and safety of others while under the supervision of school authorities by making specific statements threatening physical harm to school staff and other students. The hearing record includes evidence that if the pupil was a school shooter, he would shoot specific individuals, including two students, a teacher, and a principal. There is no dispute the pupil made these statements. These statements are no different from a pupil authoring a "kill list," which is conduct that the state superintendent has consistently held to be sufficient grounds for expulsion. *See M.J. by the Mount Horeb Sch. Dist.*, (710) Jan. 28, 2014; *K.G. by the Chippewa Falls Sch. Dist.*, (667) Aug. 27, 2010; *Barrett S by the Fox Point J2 Sch. Dist.*, (424) Oct. 6, 2000; *Will F. by the Lake Holcombe Sch. Dist.*, (407) Feb. 21, 2000; *Alec J. by Hartford Jt. #1 Sch. Dist.*, (405) Jan. 3, 2000; *Damis M. by Cadott Sch. Dist.*, (397) Aug. 20, 1999; *Nathan by Delavan-Darien Sch. Dist.*, (391) July 23, 1999. While the appellant may disagree how the school board or the district administration interpreted these statements, a reasonable view of the evidence sustains the board's findings and may not be overturned on this basis.

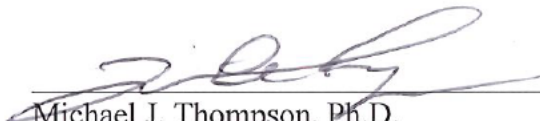
CONCLUSIONS OF LAW

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 §120.13(1)(c).

ORDER

IT IS THEREFORE ORDERED that the expulsion of J [REDACTED] S [REDACTED] by the Wautoma Area School District Board of Education is affirmed.

Dated this ^{14th} day of August, 2018



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

Parties to this appeal are:



Jeff Kasuboski
District Administrator
Wautoma School District
514 S. Cambridge St.
Wautoma, WI 54982

APPEAL RIGHTS

Wis. Stats. § 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 § 227.53 is required. In any such appeal, the State Superintendent of Public Instruction shall be named as respondent.

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