


THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of</p> <p></p> <p>by St. Croix Falls School District Board of Education</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 19-EX-02</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 St. Croix Falls School District Board of Education to expel the above-named pupil from the St. Croix Falls School District. This appeal was filed by the pupil and received by the Department of Public Instruction on February 5, 2019.

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 Pupil Expulsion Hearing," dated November 5, 2018, from the district administrator of the St. Croix Falls School District. The letter advised that a hearing would be held on November 13, 2018, that could result in the pupil's expulsion from the St. Croix Falls School District through the pupil's 21<sup>st</sup> birthday. The letter was sent separately to the pupil and his parents by certified mail and email. The letter alleged

that the pupil engaged in conduct which endangered the property, health or safety of others at school or under the supervision of school authority, and that the student engaged in conduct while at school, or while under the supervision of a school authority, which endangered the property, health, or safety of others. The letter did not allege any particulars of the pupil's alleged conduct.

The hearing was held in closed session on November 13, 2018. The pupil and his parents appeared at the hearing with 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 “[e]ngage in conduct which endangered the property, health or safety of others at school or under the supervision of school authority”, and that the pupil did “engage in conduct while at school or while under the supervision of the 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 November 13, 2018, was mailed separately to the pupil and his parents. The order stated the pupil was expelled through September 1, 2022. Minutes of the school board expulsion hearing, an audiotape of the expulsion hearing, and exhibits introduced at the hearing are included in 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.

In this matter, the school district did not comply with basic statutory procedures, and therefore the expulsion must be overturned. Prior to an expulsion hearing, school districts must provide the pupil and, if the pupil is a minor, the pupil's parent or guardian notice of the hearing that meets the requirements of Wis. Stat. § 120.13(1)(c)4. This includes the "particulars of the pupil's alleged conduct upon which the expulsion proceeding is based." Wis. Stat. § 120.13(1)(c)4.a. The "particulars" include the time frame during which the misconduct occurred, where the misconduct occurred, and a description of the conduct to be considered. *L.W. by the Iowa-Grant School Dist.*, (720) August 19, 2014. The purpose of this notice is to allow a student to adequately prepare for the expulsion hearing. *M.S. by the Milwaukee Public School Dist.*, (675) December 21, 2010.

The notice in this matter is inadequate, because it fails to include any reference to the time, place, and description of the misconduct. The hearing notice simply states the pupil engaged in "conduct that endangered the property, health or safety of others at school or under the supervision of a school authority". There are no particulars set forth in this statement. The district did not provide adequate notice of the particulars as required by Wis. Stat. § 120.13(c)4.a., and therefore the school board's decision must be reversed.

I reverse this decision very reluctantly. However, the state superintendent is bound to review decisions for statutory compliance. This decision in no way condones any alleged

conduct of the pupil in this case, nor does this particular finding of procedural deficiency foreclose the ability of the school board to reconvene an expulsion hearing in compliance with all of the procedural requirements of Wis. Stat. § 120.13(1)(c). *J.O. by Oshkosh Area Sch. Dist. Bd. of Ed.*, (748) June 6, 2017.

### 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 did not comply with all of the procedural requirements of Wis. Stat. §120.13(1)(c).

### ORDER

IT IS THEREFORE ORDERED that the expulsion of [REDACTED] by the St. Croix Falls School District Board of Education is reversed.

Dated this 8<sup>th</sup> day of April, 2019



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Robert Soldner  
Assistant State Superintendent of Public Instruction