

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

<p>In the Matter of the Expulsion of [REDACTED] by Sheboygan Area School District Board of Education</p>	<p>DECISION AND ORDER Appeal No.: 19-EX-11</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 Sheboygan Area School District Board of Education to expel the above-named student from the Sheboygan Area School District. This appeal was filed by the student and received by the Department of Public Instruction on November 14, 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 Wis. Stat. § 120.13(1)(e)3.

FINDINGS OF FACT

The record contains a letter dated October 3, 2019, from the district administrator of the Sheboygan Area School District. The letter advised that a hearing would be held on October 15, 2019 that could result in the student's expulsion from the Sheboygan Area School District through the student's 21st birthday. The letter was sent separately to the student and his parents by certified mail. The letter alleged that the student 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 that the student brought a firearm, ammunition, other weapons, and drug paraphernalia to Farnsworth Middle School on October 1, 2019.

The hearing was held in closed session on October 15, 2019. The student's mother appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The student and parent 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 student 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 the school board, dated October 22, 2019, was mailed separately to the student and his parent. The order stated the student is expelled through the student's 21st birthday and that the administration is authorized to provide reasonable assistance to the student and parent to facilitate their evaluation of educational options such as online instruction or HSED programs. Minutes of the school board expulsion hearing and an audio recording 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. School Dist. v. Burmaster*, 2006 WI App. 17, ¶ 19, 288 Wis. 2d 771. In reviewing an expulsion decision, the state superintendent must ensure 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 demands the student's expulsion.

The appeal letter in this case requests reversal based on the interests of the student, "so that his educational, emotional, and social needs can be met." It states that although he admittedly brought weapons to school, the student had no intent to harm students or school staff. This appeal does not state proper grounds for reversal of a procedurally sound expulsion order. The State Superintendent does not have authority to review expulsions for appropriateness, severity or harshness. *Kelly B. by Sch. Dist. of Three Lakes*, Decision and Order No. 100 (August 23, 1982); *Lavell A. by Kenosha Unified Sch. Dist.*, Decision and Order No. 147 (January 12, 1987) (p. 7-9). These are matters within the discretion of the school board, as long as it complies with the procedural requirements. *Id.*

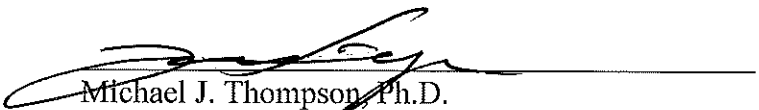
CONCLUSIONS OF LAW

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 Maliko Ortegon by the Sheboygan Area School District Board of Education is affirmed.

Dated this 8 day of January, 2020


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

APPEAL RIGHTS

Wis. Stats. § 120.13(1)(e) 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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