

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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In the Matter of the Expulsion of



by Milwaukee Board of School Directors

DECISION AND ORDER

Appeal No.: 22-EX-09

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**NATURE OF THE APPEAL**

This is an appeal to the State Superintendent of Public Instruction pursuant to Wis. Stat. § 119.25(2)(b) from the order of the independent hearing officer of the Milwaukee Board of School Directors to expel the above-named pupil from Milwaukee Public Schools. This appeal was filed by the pupil’s mother and received by the Department of Public Instruction on June 13, 2022.

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. § 119.25(2)(b).

**FINDINGS OF FACT**

The record contains a letter entitled “Notice of Student Expulsion Hearing,” dated May 13, 2022, from a student services supervisor of Milwaukee Public Schools. The letter advised that a hearing would be held on May 20, 2022 that could result in the pupil’s expulsion from Milwaukee Public Schools. The letter was sent separately to the pupil and her mother. The letter

alleged that the pupil engaged in conduct while at school or while under the supervision of school authority which endangered the property, health, or safety of others. The letter specifically alleged that the pupil was in “Possession of Drugs – Marijuana (11.7 grams) on Friday, December 3, 2021, at Rufus King High School.”

The hearing was held before an independent hearing officer in closed session on May 20, 2022. The pupil and her mother appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and her mother were given the opportunity to present evidence, to cross-examine witnesses and to respond to the allegations. On May 20, 2022, the independent hearing officer issued proposed findings of fact and conclusions of law. The independent hearing officer found that:

**By Possession/Ownership/Use of Drugs- Marijuana (11.7 grams) on Friday, December 3, 2021, [the pupil] engaged in conduct while at school and while under the supervision of a school authority, which endangered the property, health and safety of others.**

(emphasis in original). Based on this finding, the independent hearing officer found that the administration’s recommendation to expel the pupil was reasonably justified and that the interests of the district demand that the pupil be expelled until December 23, 2022. The independent hearing officer ordered that the pupil be expelled from Milwaukee Public Schools until December 23, 2022 and directed the administration to provide the pupil with an MPS Partnership School placement as determined by the IEP team during the expulsion period. The decision of the independent hearing officer was reviewed by the Milwaukee Board of School Directors on May 26, 2022. The board approved the expulsion order issued by the hearing officer and notified the pupil and her mother of that approval by mail on May 27, 2022. An audio recording of the expulsion hearing is part of the record.

## DISCUSSION

The expulsion statutes –Wis. Stat. §§ 119.25 and 120.13(1)(c) and (e) – give 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 in this case raises one issue which requires consideration. Appellant challenges solely the length of the expulsion and requests that the period of expulsion be shortened until August 23, 2022 or the first day of the 2022-2023 school year. Appellant similarly asked for the pupil’s expulsion to be shortened in her previous appeal related to the same underlying incident. *Milwaukee Bd. of Sch. Dirs.*, Decision and Order No. 809 (May 3, 2022). As explained in the previous decision, the decision to expel a student and for how long are within the complete discretion of the school board as long as it complies with all the procedural requirements of Wis. Stat. §§ 119.25 and 120.13(1)(c). *Milwaukee Bd. of Sch. Dirs.*, Decision and Order No. 809 (May 3, 2022); *Oshkosh Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 808 (Mar. 16, 2022); *Muskego-Norway Sch. Dist. Bd. of Educ.*, Decision and Order No. 804 (June 28, 2021); *St. Croix Falls Sch. Dist. Bd. of Educ.*, Decision and Order No. 793 (May 15, 2020). The school board is in the best position to know and understand what its community requires as a response to school misconduct. It would be inappropriate for me, absent an extraordinary circumstance or a violation of procedural requirements, to second-guess the appropriateness of a school board's determination. *Milwaukee Bd. of Sch. Dirs.*, Decision and

Order No. 809 (May 3, 2022); *Oshkosh Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 808 (Mar. 16, 2022); *Muskego-Norway Sch. Dist. Bd. of Educ.*, Decision and Order No. 804 (June 28, 2021); *C.T. v. Milwaukee Pub. Schs.*, Decision and Order No. 718 (May 22, 2014). In reviewing this case, I do not see an extraordinary circumstance that would cause me to modify the pupil's expulsion period.

In reviewing the record in this case, I find that the school district complied with all of the procedural requirements. I therefore affirm this expulsion.

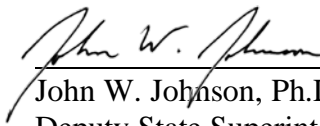
### CONCLUSIONS OF LAW

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. § 119.25.

### ORDER

IT IS THEREFORE ORDERED that the expulsion of [REDACTED] by the Milwaukee Board of School Directors is affirmed.

Dated this 2nd day of August, 2022

  
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John W. Johnson, Ph.D.

Deputy State Superintendent of Public Instruction

**APPEAL RIGHTS**

Wis. Stat. § 119.25(2)(b) specifies that an appeal from this Decision and Order may be taken within 30 days to the circuit court for 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]  
[REDACTED]

[REDACTED]  
[REDACTED]  
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