

THE STATE OF WISCONSIN

BEFORE

THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of the Expulsion of



by Raymond #14 School District
Board of Education

DECISION AND ORDER

Appeal No.: 23-EX-16

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 Raymond #14 School District Board of Education to expel the above-named pupil from the Raymond #14 School District. This appeal was filed by the pupil’s mother and received by the Department of Public Instruction on July 31, 2023.

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 May 24, 2023, from the superintendent of the Raymond #14 School District. The letter advised that a hearing would be held on June 1, 2023 that could result in the pupil’s expulsion from the Raymond #14 School District through her 21st birthday. The letter was sent separately to the pupil, her mother and her father by certified mail. The letter alleged that the pupil engaged in conduct while at

school or while under the supervision of a school authority which endangered the property, health, or safety of others at school or under the supervision of a school authority. The letter specifically alleged that:

On May 9th, 2023, at 1:10 pm it was reported to teacher Mrs. Stock, by a student, that while sitting in the Raymond Elementary School gymnasium waiting to perform at the concert [the pupil] was seen using an electronic vaping device while [the pupil] was also sitting in the gym. The teacher Mrs. Stock, notified the administrators (principal Mr. Peterson and Instructional Specialist Mrs. Ramon). Mr. Peterson and Mrs. Ramon removed [the pupil] from the gym to investigate the issue. [The pupil] was interviewed in Mrs. Ramon's office at approximately 1:15pm. [The pupil] was uncooperative with Mrs. Ramon and Mr. Peterson. [The pupil] refused to answer questions and denied having an electronic vaping device in her possession. When asked to write a description of the device and indicate to whom she gave the device and who gave the device to her, [the pupil] wrote "I AM NOT A FUCKING SNITCH HAVE A GOOD LIFE LOVE [THE PUPIL],["] and gave that note to Mr. Peterson. The assistance of the Racine County Sheriff's Department was requested and the deputies retrieved two electronic vaping devices from [the pupil]. The officers, based upon their experience, reported the cartridge marking indicated they contained THC. During the investigation it was determined that [the pupil] brought the devices onto school property and into the school building, vaped during an assembly, gave the device to three other students (at approximately 1:00pm while in the gym) and was uncooperative and abusive during the investigation.

The hearing was held in closed session on June 1, 2023. The pupil and her parents appeared at the hearing without counsel. At the hearing, the school district administration presented evidence concerning the grounds for expulsion. The pupil and her 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 pupil's expulsion. The order for expulsion containing the findings of fact and conclusions of law of the school board, dated June 1, 2023, was mailed

separately to the pupil, her mother and her father. The order stated the pupil was expelled through her 21st birthday, and provided that the pupil would be eligible for early reinstatement at the start of the 2023-2024 school year if she met certain conditions. A transcript of the expulsion hearing is 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 demands the pupil’s expulsion.

The appeal letter in this case raises two issues which require consideration. Appellant seeks a second chance for the pupil, arguing that expelling the pupil will harm her and stating that the pupil regrets her choices and promises not to behave that way again. Appellant and the pupil made similar arguments to the board at the expulsion hearing. The state superintendent has the authority to “approve, reverse, or modify” the school board’s decision. Wis. Stat. § 120.13(1)(c)3. However, because the school board is in the best position to know and understand what its community requires as a response to school misconduct, the state superintendent has historically chosen not to second-guess the appropriateness of a school board’s determination. *See, e.g., Appleton Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 820 (Nov. 15, 2022); *Sun Prairie Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 811 (May 26, 2022); *Madison Metro. Sch. Dist. Bd. of Educ.*, Decision and Order No. 786 (Nov. 7, 2019). I see no

extraordinary circumstance here that would prompt me to overrule the determination of the board that expulsion is an appropriate response to the pupil's actions.

Appellant states that the pupil struggles with ADHD and is in weekly counseling to help her with her decision-making skills. The record contains no indication that the pupil was diagnosed as a child with a disability. To the extent appellant is suggesting that the pupil's expulsion violated special education laws, the state superintendent has consistently held that an expulsion appeal is not the appropriate context within which to challenge a school district's application of special education provisions to a particular student. *Chequamegon Sch. Dist. Bd. of Educ.*, Decision and Order No. 812 (June 2, 2022); *Oshkosh Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 808 (Mar. 16, 2022); *Middleton-Cross Plains Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 794 (June 26, 2020). Such challenges are beyond the scope of the state superintendent's review when there is no evidence in the record that the student was identified as a child with a disability. *S.R. v. Chippewa Falls Area Unified Sch. Dist. Bd. of Educ.*, Decision and Order No. 723 (February 25, 2015). Any challenges to the district's compliance with special education procedures may be addressed using the special education appeal process.

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

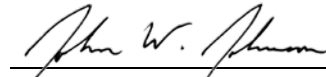
CONCLUSIONS OF LAW

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. § 120.13(1)(c).

ORDER

IT IS THEREFORE ORDERED that the expulsion of [REDACTED] by the
Raymond #14 School District Board of Education is affirmed.

Dated this 19th day of September, 2023



John W. Johnson, 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:

[REDACTED]

[REDACTED]

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COPIES MAILED TO:

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