


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></p> <p>by Beloit Turner School District Board of Education</p>	<p>DECISION AND ORDER</p> <p>Appeal No.: 24-EX-04</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 Beloit Turner School District Board of Education to expel the above-named pupil from the Beloit Turner School District. This appeal was filed by the pupil’s mother and received by the Department of Public Instruction on February 22, 2024.

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) and has been delegated to me under Wis. Stat. § 15.02(4).

**FINDINGS OF FACT**

The record contains a letter entitled “Notice of Pupil Expulsion Hearing,” dated January 5, 2024, from the superintendent of the Beloit Turner School District. The letter advised that a hearing would be held on January 15, 2024 that could result in the pupil’s expulsion from the Beloit Turner 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; that while not at school or while not under the supervision of a school authority, the pupil engaged in conduct which endangered the property, health, or safety of others at school or under the supervision of a school authority; and that the pupil knowingly conveyed or caused to be conveyed a threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by means of explosives. The letter specifically alleged that the pupil:

sen[t] two different email threats to separate administrators of Turner High School. The first email was determined to be sent from an email account traced to the IP address at [the pupil]'s home and was sent to Dean of Students Lori Davis titled "I'm warning you" from the email address "cuteboyexplosion@gmail.com" on Wednesday, December 20, 2023 at 10:14 AM and stated the threats of "I hate this school and I want it bombed" and "I will shoot it up". The second email came to High School Principal Matt Bright titled "Warned" from the email address "lady sakuria@gmail.com" on Thursday, December 21, 2023 at 7:32 AM and stated "I warned you. Evacuate the school now. Cancel it or I will kill your students." The second email was also traced to the IP address associated with [the pupil]'s home at [street address] in Beloit, WI. Both emails were determined to be sent via [the pupil]'s personal cell phone.

The hearing was held in closed session on January 15, 2024. 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 (a) engaged in conduct while at school or while under the supervision of a school authority which endangered the property, health, or safety of others; (b) while not at school or while not under the supervision of a school authority, engaged in conduct which endangered the property,

health, or safety of others at school or under the supervision of a school authority; and (c) knowingly conveyed or caused to be conveyed a threat or false information concerning an attempt or alleged attempt being made or to be made to destroy school property by means of explosives. 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 January 15, 2024, was mailed separately to the pupil and her parents. The order stated the pupil was expelled until the age of 21. An audio recording 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 four issues which require consideration. First, appellant seeks to challenge the determination that the pupil's conduct was not a manifestation of her disability, arguing that the pupil's actions were a direct result of her autism disability. The state superintendent has consistently held that an expulsion appeal is not the appropriate context within which to challenge a district's application of special education provisions to a particular pupil. *Chequamegon Sch. Dist. Bd. of Educ.*, Decision and Order No. 812 (June 2, 2022); *Middleton-Cross Plains Area Sch. Dist. Bd. of Educ.*, Decision and Order No. 794 (June 26,

2020); *R.M. v. Oak Creek-Franklin Joint Sch. Dist. Bd. of Educ.*, Decision and Order No. 711 (January 30, 2014). A school board must rely on the judgment of the manifestation determination team, and an expulsion hearing may not serve as a forum to revisit this determination. *EB v. Chilton Pub. Sch. Dist. Bd. of Educ.*, Decision and Order No. 750 (Jul. 24, 2017); *CD v. Pardeeville Sch. Dist. Bd. of Educ.*, Decision and Order No. 715 (Feb. 7, 2014). Similarly, the state superintendent does not have the authority in an expulsion appeal to examine the appropriateness of a manifestation determination. *CD v. Pardeeville Sch. Dist. Bd. of Educ.*, Decision and Order No. 715 (Feb. 7, 2014). A manifestation determination may be challenged using the special education due process appeal procedures provided under Wis. Stat. § 115.80 and the Individuals with Disabilities Education Act (IDEA). Appellant requested a thorough review of the pupil’s case “[i]n accordance with special education law and regulations” and the appeal has been referred for processing as an IDEA complaint.

Second, appellant contends that the pupil’s judgment was impaired by medications (Dayquil, Nyquil and prescription medications) that the pupil had taken while she was sick. At the expulsion hearing, appellant presented evidence regarding the potential effects of the medication on the pupil, and the board was able to consider that information as mitigating evidence. 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). The school board's decision to expel the pupil despite the mitigating evidence was not unreasonable.

Third, appellant contends that the school board was misled by the pupil's IEP and that the IEP influenced the board's decision to expel the pupil. At the expulsion hearing, a district witness mentioned several times that because the pupil had an IEP, she would continue to receive an education even if she was expelled. There were several questions as to what such education would look like, and the witness stated that that could not be answered until the IEP team met. These were accurate statements and were not so misleading in this case as to be a basis for reversal of the expulsion.

Fourth, appellant contends that following the pupil's expulsion, the pupil's IEP needs have not been adequately met and that she is receiving an education in the most restrictive environment possible, depriving her of the opportunity to learn. As already discussed, an expulsion appeal is not the appropriate forum within which to challenge a school district's application of special education provisions to a particular student and the appeal in this matter is separately being processed as an IDEA complaint.

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. Nothing in this decision has any bearing on the analysis or outcome of the IDEA complaint.

#### **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 Beloit  
Turner School District Board of Education is affirmed.

Dated this 17th day of April, 2024



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Sachin Chheda  
Executive Director, Office of State Superintendent  
Department 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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District Administrator  
Beloit Turner School District  
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**COPIES MAILED TO:**

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