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*The Solution Starts Here.*

## **Can a Student Be Expelled for Threatening School Violence?**

School districts are increasingly confronted with threats of school violence made by students, and in light of national events, they are right to take them seriously. Oftentimes, the question arises of whether such conduct is subject to expulsion.

### **Can a School District Expel a Student for Threatening School Violence?**

Yes. Section 120.13(1)(c)1. of the Wisconsin Statutes provides that a school board may expel a student whenever it finds student engaged in certain conduct, including (1) conduct while at school or while under the supervision of a school authority which endangered the property, health or safety of others; and (2) conduct while not at school or while not 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, or endangered the property, health or safety of any employee or school board member of the district. The statute explicitly provides that making a threat to the health or safety of a person or making a threat to damage property constitutes conduct that endangers a person or property.

The statute also permits school boards to expel a student whenever it finds the student knowingly conveyed, or caused to be conveyed, any threat or false information concerning an attempt to destroy school property by means of explosives.

### **What Qualifies as a Threat?**

When deciding whether to expel a student, one question that school boards grapple with is whether a student's statement constitutes a threat. For example, is sending an email with only the word "bomb" in the subject line the same thing as making a bomb threat? The Wisconsin Court of Appeals addressed this question in *In re Jacob J.B.*, 244 Wis. 2d 288 (2001) (unpublished). This case involved a student's appeal of a juvenile dispositional order finding that he intentionally conveyed a bomb threat when he sent an email to the high school principal containing the single word "bomb."

The Court defined "threat" as "speech or conduct that objectively causes reasonable fear that the threatened purpose will be carried out. . . In determining whether a reasonable person would interpret the communication as a serious expression of intent to inflict bodily harm, all relevant contextual circumstances must be considered. This would include the nature of the threat, the events surrounding the making of the threat, and the reaction of those to whom the threat is communicated."

In this case, the court considered the following circumstances surrounding the student's email:

- The student's other comments at the time. The court noted that before sending the message, the student asked a friend if he should send a bomb threat. He also stated to the investigating police officer that he knew by sending the message the school might be evacuated.
- The reaction of others. After the principal received the message, which he regarded as a serious threat, the police were immediately called, after-school activities were cancelled, and an extensive search was conducted at the school.
- Current national events. The court took into account national events when determining that a reasonable person would have interpreted the message as a threat, stating, "Unfortunately, anyone familiar with the present events in our country must consider these types of messages as a serious threat of harm."

Although this case was not an expulsion appeal decision, it provides helpful insight as to how a reviewing court would likely decide this issue on appeal. When considering whether a student's statement qualifies as a threat to the health or safety of a person or a threat to damage property, school administration and school boards should consider all surrounding circumstances, including those listed above, to determine whether a reasonable person would interpret the statement as a threat.

If you have questions about a pending student disciplinary matter, or would like assistance in reviewing your student discipline policies and procedures, please contact Alana Leffler at [aleffler@buelowvetter.com](mailto:aleffler@buelowvetter.com) or 262-364-0267 or your Buelow Vetter Attorney.