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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1174
A17-1228**

In the Matter of the Expulsion of B. L. from
Independent School District No. 832, Mahtomedi Public Schools.

**Filed May 7, 2018
Affirmed
Bjorkman, Judge**

Department of Education
File No. 17-02E

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Considered and decided by Rodenberg, Presiding Judge; Bjorkman, Judge; and
Smith, John, Judge.*

UNPUBLISHED OPINION

BJORKMAN, Judge

These consolidated appeals under the Minnesota Pupil Fair Dismissal Act (the Act),
Minn. Stat. §§ 121A.40-.56 (2016), challenge the decision of respondent commissioner of

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

education affirming the decision of relator/cross-respondent Independent School District No. 832 to expel respondent/cross-relator B.L., but reducing the duration of the expulsion. In appeal A17-1174, the school district argues that the commissioner erred by concluding that the school board violated B.L.'s right to due process and rendered an inadequate and arbitrary expulsion decision. In appeal A17-1228, B.L. contends that the commissioner erred by concluding that substantial evidence supports the school board's decision to expel him for willful violation of a school-board regulation and by determining that the school district provided the required alternative educational services. Both relators argue that the commissioner erred by modifying the school board's expulsion decision. We affirm.

FACTS

In March 2017, B.L. was a junior at Mahtomedi High School (school). At the end of the school day on Monday, March 20, B.L. discovered that a friend had a BB pellet gun in his vehicle, which they had used over the weekend. B.L. took the BB gun, telling his friend that he would return the gun to its owner. B.L. put the BB gun in his pocket, but the end of it stuck out as he walked; he kept his hand over it so that he would not alarm anyone, get in trouble, or get anyone else in trouble.

B.L. got into another friend's vehicle, and they waited in a line of vehicles to exit the school parking lot. B.L. recognized a van in the exit line and went to speak to an occupant, with the gun still in his pocket. As he was jogging back to his friend's vehicle, the BB gun fell to the ground. B.L. picked it up, saying, "Hey, it's okay," to the people in nearby vehicles, and returned to his friend's vehicle. A school bus driver noticed the BB gun, which looked like a real gun, and reported it to her dispatcher, who notified police.

B.L. and his friend left the parking lot, drove on city streets, and returned to another school parking lot. As B.L.'s friend pulled into the lot, B.L. waved to another student with the BB gun in his hand. Shortly thereafter, B.L.'s friend stopped and B.L. got out of the vehicle, putting the BB gun back into his pocket. He entered another friend's vehicle, removed the BB gun from his pocket, and placed a sweater or T-shirt on top of it so nobody would see it. B.L.'s second friend drove to a third school parking lot, then drove B.L. home. B.L. dropped off his backpack but not the BB gun, which he left in the vehicle as he and his friend went to get food.

The school resource officer eventually tracked B.L. down, asking him and his friend to return to the school. They complied, and when B.L. entered the main office, he immediately stated: "It's my fault." The school suspended B.L. from school, pending expulsion proceedings.

On March 28, the school district provided B.L. and his mother written notice that it proposed to expel B.L. for 12 months on grounds that, by intentionally possessing the BB gun on school property and showing it to others, he willfully: (1) violated a reasonable school-board regulation; (2) engaged in willful conduct that significantly disrupted the rights of others to an education, or the ability of school personnel to perform their duties; and (3) engaged in conduct that endangered pupils or surrounding persons.

On April 12, an independent hearing officer conducted an evidentiary hearing. B.L. testified that he knew he was not permitted to have a BB gun on school property but did so to keep his friend out of trouble. He acknowledged that he had received two in-school suspensions for disciplinary infractions earlier that school year. But he also testified that

he received an award for assisting another student, has a good relationship with his teachers and the school psychologist, did not intend to or actually hurt anyone with the BB gun, and cooperated with the school resource officer and administrators regarding the BB-gun incident. His attorney argued that these facts mitigate the severity of B.L.'s conduct.

On April 17, the hearing officer issued proposed findings of fact and legal conclusions, recommending that the school board expel B.L. for the remainder of the 2016-17 school year on the ground that he willfully violated a reasonable school-board regulation.

The following day, the school board met to consider the hearing officer's recommendation and the record, and to make the expulsion decision. B.L. and his mother attended the meeting; they did not dispute any of the hearing officer's proposed findings but requested that the school board not expel B.L. A school district attorney provided the school board new proposed findings, conclusions, and decision, explaining that the submissions corrected inaccuracies in the hearing officer's findings and addressed the school district's two other proposed expulsion grounds. The attorney advised the school board to expel B.L. according to the hearing officer's recommendation. The school board adopted the new proposed findings and conclusions but expelled B.L. for both the remainder of the 2016-17 school year and the first semester of the 2017-18 school year.

B.L. appealed his expulsion to the commissioner. The commissioner concluded that substantial evidence supports the determination that B.L. willfully violated a reasonable school-board regulation and rejected B.L.'s argument that the school district failed to provide him with required alternative educational services. But the commissioner

concluded that the school board violated B.L.’s right to due process, and that its written decision is arbitrary and fails to provide the written explanation required under the Act. The commissioner therefore rejected the school board’s findings, affirmed B.L.’s expulsion based on the hearing officer’s proposed findings, and reduced the term of expulsion to one semester, as the hearing officer recommended.

The school district and B.L. each appealed by writ of certiorari. We consolidated the appeals for decision.

D E C I S I O N

When a school board expels a student, he may appeal to the commissioner. Minn. Stat. § 121A.49. The commissioner’s decision is subject to limited judicial review. Minn. Stat. § 121A.50 (providing for review under Minn. Stat. §§ 14.63-.69 (2016)). In conducting that review, we consider only whether the commissioner’s decision is unconstitutional, exceeds the commissioner’s statutory authority or jurisdiction, lacks substantial evidentiary support, is arbitrary or capricious, or is “affected by other error of law.” Minn. Stat. § 14.69. We defer to a school board’s determination regarding expulsion grounds “so long as it is reasonable and supported by substantial evidence.” *In re Expulsion of A.D.*, 883 N.W.2d 251, 259 (Minn. 2016). A substantial evidentiary basis exists “where, considering the evidence in its entirety, there is relevant evidence that a reasonable person would accept as adequate to support a conclusion.” *Id.* But we owe no deference to a school board or the commissioner on questions of law, such as statutory interpretation and due process. *See id.* at 256 (statutory interpretation); *In re Expulsion of N.Y.B.*, 750 N.W.2d 318, 327 (Minn. App. 2008) (due process).

I. Substantial evidence supports expelling B.L. for willful violation of a school-board regulation.

The Act identifies three grounds on which a student may be expelled. Minn. Stat. § 121A.45, subd. 2(a)-(c). The focus of this appeal is the one expulsion ground that the hearing officer recommended, the school board determined, and the commissioner affirmed—a willful violation of a reasonable school-board regulation.

The school-board regulations at issue here are the “zero tolerance” weapons policy and the discipline policy. B.L. does not dispute that these policies clearly prohibit students from possessing BB guns on school property and provide for expulsion for up to one calendar year as a minimum consequence for violation. Nor does he dispute that this prohibition and consequence are reasonable. But he argues that substantial evidence does not support his expulsion for violating the weapons policy because (1) substantial evidence does not indicate he was specifically aware of the weapons and discipline policies; (2) the only version of the policies he possessed was not “clear and definite to provide notice to [students] that they must conform their conduct to its requirements,” as Minn. Stat. § 121A.45, subd. 2(a), requires; and (3) substantial evidence does not indicate that he intended to violate any school-board policy.¹ These arguments are unavailing.

Regarding B.L.’s first two arguments, the record contains substantial and largely undisputed evidence that he was aware of a clear and definite prohibition on possessing a

¹ B.L. complains that the commissioner did not adequately analyze the sufficiency of the evidence supporting this ground for expulsion. The commissioner acted in an appellate capacity and was not bound by the requirement to “show your work” that applies to the school board under Minn. Stat. § 121A.47, subd. 13. See *N.Y.B.*, 750 N.W.2d at 326.

BB gun on school property. Each year, the school provided B.L. a student handbook that summarizes the weapons and discipline policies and other school-board policies. The handbook states that students are responsible for “knowing the contents of the [discipline] policy and abiding by it” and informs students that all policies can be found on the Mahtomedi Public Schools webpage. The handbook also specifically lists various “student behaviors which may result in discipline,” including: “Weapon (including ‘look-alikes’)” and “Firearm Possession.” Moreover, B.L. actually knew that he was not permitted to possess the BB gun on school property. At the evidentiary hearing, B.L. acknowledged not only that he knew “it’s not okay to have a gun at school” but also that he was specifically aware “it was a bad thing to have a BB gun” on school property because another student got in trouble after bringing a BB gun to a school football game.² And B.L.’s explanation that he removed the BB gun from a friend’s vehicle so that person would not get in trouble, and sought to hide it from others’ view to avoid getting in trouble, confirms his awareness that he was violating school policy by possessing the BB gun.

The record likewise contains substantial and largely undisputed evidence establishing B.L.’s intent. B.L. acknowledges that he intentionally took possession of the BB gun. And he did so because of his knowledge of the BB-gun ban—so his friend would not violate the policy by possessing the BB gun in his vehicle on school property. B.L. points out that he meant no harm by his actions. But intent to harm is not the issue; the

² The school district proposed to expel that student, but he voluntarily withdrew from the school district. B.L. testified that he was unaware of the proposed expulsion but “thought he got . . . arrested.”

issue is whether B.L. made “a deliberate, intentional decision to violate [the BB-gun] policy.” *See A.D.*, 883 N.W.2d at 258. Substantial evidence supports the finding that he did.

B.L.’s willful violation of the school-board regulation banning BB guns alone supports his expulsion. But the school district argues that the commissioner erred by refusing to substantively evaluate the two other grounds for expulsion, and that substantial evidence supports them. We disagree. The school district does not contend that the additional grounds are integral to the expulsion decision, or that the existence of multiple grounds explains the length of the expulsion. *Cf. N.Y.B.*, 750 N.W.2d at 326 (stating that the Act “requires the school board to explain the reasons for both the expulsion and its length”). It argues only that the commissioner should have addressed the additional grounds “because it can provide an additional justification for expulsion if one ground is overturned on appeal.” Because we conclude that substantial evidence supports B.L.’s expulsion for willful violation of a school-board regulation, we discern no error in the commissioner’s analysis and likewise decline to address other potential expulsion grounds.

II. The school district fulfilled its obligation to provide B.L. alternative educational services.

We review de novo the interpretation of the Act, including its provisions regarding alternative educational services. *A.D.*, 883 N.W.2d at 256. “The goal of all statutory interpretation is to determine and effectuate the intent of the Legislature.” *Id.* We determine that intent from the plain language of the statute. *Id.* But we also consider statutory language in context, looking to the entire statute and surrounding sections on the

same subject. *Emerson v. Sch. Bd. of Indep. Sch. Dist.* 199, 809 N.W.2d 679, 685 (Minn. 2012).

Under the Act’s plain language, a school has a “continuing responsibility” for a student’s education when the student is denied the “current educational program” because of an expulsion. Minn. Stat. §§ 121A.41, subd. 2, .55(a). In practice, that responsibility means the school must offer “alternative education services” to an expelled student, to continue his academic progress. Minn. Stat. § 121A.55(a). A school district’s responsibility to offer such services generally starts as soon as it moves toward expelling a student: “No school shall [expel] any [student] without attempting to provide alternative educational services before [expulsion] proceedings, except where it appears that the [student] will create an immediate and substantial danger to self or to surrounding persons or property.” Minn. Stat. § 121A.45, subd. 1. And when a school district commences expulsion proceedings, its notice of proposed expulsion must “describe alternative educational services accorded the [student] in an attempt to avoid the expulsion proceedings.” Minn. Stat. § 121A.47, subd. 2.

B.L. argues that these latter two portions of the Act create a substantive right to alternative educational services “reasonably calculated to prevent the expulsion proceeding itself.”³ We disagree. The Act provides, without qualification, that willfully disobedient,

³ The day before the school-board meeting, B.L. initiated a civil action in federal court, seeking a temporary injunction against the expulsion proceedings on grounds that the school district had failed to provide him the requisite alternative educational services. The federal district court denied injunctive relief. *B.L. v. Mahtomedi Sch. Dist., ISD No. 832*, No. CV 17-1193 (D. Minn. Apr. 26, 2017) (order).

disruptive, or dangerous behavior is grounds for expulsion. Minn. Stat. § 121A.45, subd. 2. The requirement to offer alternative educational services merely mitigates the disruptive effect of expulsion on the student's education, to which he has a fundamental right. *See In re Expulsion of E.J.W.*, 632 N.W.2d 775, 780 (Minn. App. 2001) (citing *Goss v. Lopez*, 419 U.S. 565, 95 S. Ct. 729 (1975)). Two key factors require this interpretation.

First, alternative educational services are fundamentally academic. The phrase itself suggests as much, and the statutory definition confirms that alternative educational services include academic services such as “special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessment, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center.” Minn. Stat. § 121A.41, subd. 11. The Act recognizes that a student who engages in behavior that prompts expulsion may also require restorative or behavioral services, but such services are complementary to, not part of, alternative educational services. *See* Minn. Stat. § 121A.45, subd. 3 (recognizing that severe student misconduct that warrants repeated or prolonged removals from school may necessitate mental-health intervention).

Second, a student subject to expulsion proceedings is not entitled to any particular alternative educational service. The Act contemplates a variety of alternative educational services, including long-term alternative learning environments. Minn. Stat. § 121A.41, subd. 11. Such services may afford a mutually agreeable alternative to the classroom, thereby “avoid[ing] the expulsion proceedings.” *See* Minn. Stat. § 121A.47, subd. 2. But

the school is neither required to offer any particular service,⁴ nor is the student required to accept any particular service. See Minn. Stat. §§ 121A.45, subd. 1 (requiring school to “attempt[] to provide alternative educational services” (emphasis added)), .55(a) (requiring alternative educational services adequate to keep the student on schedule to graduate, but only “if the [student] wishes to take advantage of them”). In short, the Act requires a school district to offer alternative educational services but does not require that they be used to prevent an otherwise appropriate expulsion.

Here, it is undisputed that the school district offered, and B.L. accepted, several alternative educational services. From the first day of his suspension, B.L. had online access to his course materials. During the pendency of the expulsion proceeding, the school district arranged for B.L. to meet with his teachers and an intervention specialist to support his academic progress and help him make better choices. B.L. does not dispute that these services were satisfactory and he acknowledged at the school-board meeting that he was on track academically. And the school district offered another type of alternative educational service that B.L. declined—the option to transfer to another school district or to an alternative learning center with the school district’s assistance. The Act explicitly includes school transfer in the definition of alternative educational services, and acceptance of this option by B.L. would have avoided expulsion. Minn. Stat. § 121A.41, subd. 11. On

⁴ The school district contends it was exempted from providing alternative educational services under Minn. Stat. § 121A.45, subd. 1, because B.L.’s conduct created “an immediate and substantial danger to self or to surrounding persons or property.” Neither the school board nor the commissioner addressed this issue. We decline to consider this issue for the first time on appeal. See *A.D.*, 883 N.W.2d at 261 (citing *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)).

this record, we conclude that the school district satisfied its statutory obligation to offer alternative educational services.

Nonetheless, as B.L. asserts, the school district plainly failed to describe these services in its notice of proposed expulsion. Indeed, the notice stated only that B.L. “will begin receiving alternative educational services on April 3, 2017 in the form of supervised homework” and will continue to receive services through any expulsion period. But B.L. does not identify any prejudice flowing from the school district’s failure to expressly notify him of services he was already receiving. A non-prejudicial technical violation of the Act’s notice requirements is not a defense to expulsion. *See* Minn. Stat. § 121A.48 (stating that a good-faith violation of the “technical provisions” of the Act “is not a defense to a disciplinary procedure” absent “actual prejudice”); *N.Y.B.*, 750 N.W.2d at 327 (declining to reverse for failure to furnish a list of low-cost legal resources to a student who already had pro bono legal counsel); *cf. E.J.W.*, 632 N.W.2d at 781 (reversing expulsion when school district failed to call or identify student witnesses before hearing because the omission deprived student of fair hearing). On this record, we conclude that B.L. is not entitled to relief based on the notice deficiency.

III. The commissioner did not err by reducing the expulsion term.

After concluding that substantial evidence justifies B.L.’s expulsion and that B.L. received the requisite alternative educational services, the commissioner reduced the expulsion term because of two errors by the school board—denial of due process to B.L. in the conduct of the expulsion meeting and the inadequacy and arbitrariness of the school board’s written decision. We address each claimed error in turn.

Due Process

Whether a given procedure violates due process presents a question of law, subject to de novo review. *N.Y.B.*, 750 N.W.2d at 327. To obtain relief, “a party generally must establish that the alleged error—even a constitutional error—resulted in prejudice.” *Id.*

A student has a statutory and constitutional right to due process in expulsion proceedings. Minn. Stat. § 121A.42; *E.J.W.*, 632 N.W.2d at 780. In evaluating whether a student was afforded due process, we consider the risk that the procedures used erroneously deprived the student of the right to an education, and the potential value and feasibility of alternative procedures. *E.J.W.*, 632 N.W.2d at 780-81 (applying *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893 (1976) to expulsion procedures).

The Act affords significant procedural safeguards to a student facing possible expulsion. The school district must provide notice of the proposed expulsion, including “a complete statement of the facts, a list of the witnesses and a description of their testimony.” Minn. Stat. § 121A.45, subd. 2. The school district must afford the student a prompt, convenient, recorded, impartial evidentiary hearing. *Id.*, subds. 1, 3-7. At the evidentiary hearing, the student may be represented by counsel and may testify, compel testimony, and present other evidence. *Id.*, subds. 2(f)(1), 9-11. Thereafter, the hearing officer must tender a recommendation to the school board and the student. *Id.*, subd. 12. The school board then must meet to consider the hearing record and the hearing officer’s recommendation; in doing so, it “may provide the parties with the opportunity to present exceptions and comments to the hearing officer’s recommendation.” *Id.*, subd. 13. The school board must render its expulsion decision at the meeting and in writing. *Id.*

While the school district followed each step of the process in pursuing B.L.'s expulsion, the commissioner concluded that the school board's conduct with respect to its own expulsion meeting deprived B.L. of due process. To evaluate this conclusion, we consider the circumstances of that meeting. The day before the meeting, the assistant principal notified B.L.'s mother that the attorney who represented the school district at the evidentiary hearing would not be present for the school-board meeting. But almost contemporaneously that same attorney also confirmed that B.L. could attend the meeting to present exceptions and comments. B.L. and his mother did attend the meeting, without B.L.'s attorney. B.L.'s mother told the school board that B.L. is a good child with strong school relationships who made and took responsibility for a mistake and should not be expelled. Two school district attorneys also attended, including the one who represented the school district at the evidentiary hearing. The second attorney urged the school board to adopt new findings to correct errors in those of the hearing officer and to address all three expulsion grounds. And he advised the school board to follow the hearing officer's recommendation to expel B.L. for the remainder of the current semester. The school board adopted the new proposed findings but expelled B.L. for two semesters.

B.L. and the commissioner contend these circumstances deprived B.L. of due process because they deprived him of legal counsel and a reasonable opportunity to be heard before the school board. We are not persuaded. Consistent with the Act's procedural guarantees, B.L. was afforded the right to counsel and an opportunity to be heard at the evidentiary hearing, where he and his attorney participated in creating the record from which the school board made its expulsion decision. In considering that record, the school

board permitted B.L. to present exceptions and comments to the hearing officer's recommendations. That he did so without his attorney does not diminish that opportunity, as the right to counsel at the school-board meeting is neither guaranteed under the Act, *see* Minn. Stat. § 121A.47, subd. 13, nor necessary to safeguard against an erroneous expulsion, given the limited scope of the optional "exceptions and comments" portion of the school board's process.

Moreover, there is no indication that the absence of B.L.'s attorney from the meeting made any difference. B.L. contends he was prejudiced because his attorney could have alerted the school board to mitigating factors, which the school district's attorney omitted from his submissions. But B.L.'s mother ably highlighted the mitigating factors that the hearing officer noted. And the school district's attorney, despite omitting the mitigating factors from his submissions, expressly and repeatedly advised the school board to follow the hearing officer's recommendation for a one-semester expulsion. The school board rejected that advice. On balance, this record does not indicate that any procedural defects in the school board's meeting contributed to its decision to expel B.L. for two semesters.⁵

⁵ The commissioner and B.L. assert two additional flaws in the school board's process: (1) the school district's attorney "played unclear roles" at the school-board meeting by alternately referring to himself as the school district's attorney and the school district administration's attorney and (2) members of the school board "participated in making the determination under review"—the decision to propose expulsion. Neither distinction makes a difference because the school board is the governing body of the school district and the entity responsible for both proposing and deciding expulsions. Minn. Stat. §§ 121A.41, subd. 9, .47, subd. 1.

Inadequate and Arbitrary Decision

A school board must base its expulsion decision upon “the recommendation of the hearing officer” and “the record” from the evidentiary hearing. Minn. Stat. § 121A.47, subd. 13. The school board must issue its decision in writing and “state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the commissioner of education of the basis and reason for the decision.” *Id.* In short, it must explain how the evidence “connects rationally with [its] choice of action,” articulating the reasons for both the expulsion and its length. *N.Y.B.*, 750 N.W.2d at 326 (quotation omitted). A school board’s decision is arbitrary and capricious if it represents the school board’s “will and not its judgment.” *Beste v. Indep. Sch. Dist. No. 697*, 398 N.W.2d 58, 63 (Minn. App. 1986).

The commissioner concluded that the school board’s written decision is arbitrary and insufficient under Minn. Stat. § 121A.47, subd. 13, because the school board failed to (1) identify which portions of the hearing officer’s findings were not substantiated by the record, (2) address the mitigating factors presented at the hearing and set forth in the hearing officer’s proposed findings; and (3) “state the controlling factors supporting an upward departure from the independent hearing officer’s recommendation.” We agree.

While the school board thoroughly explained its decision to expel B.L., it did not articulate the reasons for its duration—two semesters, rather than the one-semester expulsion that the hearing officer recommended. *See* Minn. Stat. § 121A.47, subd. 13; *N.Y.B.*, 750 N.W.2d at 326. And it entirely failed to address the mitigating factors that B.L. advanced and the hearing officer found. *See N.Y.B.*, 750 N.W.2d 326-27 (stating that a

school board must address any mitigating circumstances that a student raises). The school district insists that these factors were addressed during the school board members' recorded discussion. But that discussion does not constitute the school board's collective decision and cannot satisfy the requirements of Minn. Stat. § 121A.47, subd. 13. We are similarly unpersuaded by the school district's assertion that the school board properly disregarded B.L.'s claimed mitigating circumstances because they do not reduce the severity or dangerousness of his actions; the school board did not provide this or any other explanation in its written decision. These unexplained omissions do not comply with Minn. Stat. § 121A.47, subd. 13, and indicate arbitrary decision-making, indicative of the school board's will and not its judgment. *See Beste*, 398 N.W.2d at 63 (stating that summary rejection of a hearing officer's specific recommendations evinces arbitrary action). We therefore consider the appropriate remedy for these errors.

Remedy

The commissioner had, and we now have, the discretion to remedy an erroneous expulsion decision by reversing, remanding for further proceedings, or modifying the decision. Minn. Stat. §§ 14.69, 121A.49. Both B.L. and the school district argue that the commissioner erred by modifying the school board's decision. We consider their arguments in turn.

B.L. contends the commissioner should have reversed the school board's decision rather than simply modifying it to reduce the duration of the expulsion. We disagree. Despite flaws in the school board's decision, B.L.'s undisputedly fair and procedurally appropriate evidentiary hearing yielded substantial evidence that B.L. willfully violated a

reasonable school-board regulation. To reverse the expulsion outright would erase an entire process that was only partially flawed.

The school district argues that the commissioner erred by reducing the expulsion length, rather than remanding for the school board to make additional findings supporting the longer expulsion. We agree that such a remand may be an appropriate remedy for a school board's failure to address mitigating factors, explain its rejection of proposed findings, or explain the length of an expulsion. *N.Y.B.*, 750 N.W.2d at 326. But we discern no error in the commissioner's decision to modify the school board's decision in much the same manner as an appellate court does when the appropriateness of a specific outcome is apparent from the record. See Minn. Stat. § 14.69 (authorizing modification); see, e.g., *Spann v. State*, 740 N.W.2d 570, 573-74 (Minn. 2007) (vacating convictions for lesser-included offenses). Moreover, B.L. acknowledges that it is the expulsion itself that matters, not its length, particularly now that the expulsion period has ended. Accordingly, we decline to remand for additional findings and affirm the commissioner's decision.

Affirmed.