

BEFORE THE IMPARTIAL HEARING OFFICER

In the Matter of the Grievance of

MARILYNN DOUGLAS

Under the Grievance Procedure of

MILWAUKEE PUBLIC SCHOOLS

Case ID: 22.0099

Case Type: IHO

Grievance No. FY24/173

DECISION NO. 40780

Appearances:

Attorney Will Kramer, Pines Bach, LLP, 122 W. Washington Avenue, Suite 900, Madison, Wisconsin appearing on behalf of Marilyn Douglas.

Attorney Gary Johnson, 5225 W. Vliet Street, Milwaukee, Wisconsin appearing on behalf of Milwaukee Public Schools.

DECISION OF THE IMPARTIAL HEARING OFFICER

I the undersigned was selected by Milwaukee Public Schools (MPS) and assigned by the Wisconsin Employment Relations Commission to serve as an impartial hearing officer (IHO) as to a grievance filed by Marilyn Douglas (Douglas). In her grievance, Douglas asserts she had been given a letter of reprimand without just cause by MPS.

A hearing was held on January 23, 2025, at the MPS Administrative building located at 5225 West Vliet Street, Milwaukee, Wisconsin. A stenographic transcript of the hearing was prepared and provided to the IHO and parties on February 3, 2025.

The parties agree that the issue to be decided is:

Whether there was just cause to issue the Grievant, Marilyn Douglas, a discipline plan in the form of a letter of reprimand in her file and, if not, what is the appropriate remedy?

The MPS created grievance procedure provides that it is MPS' burden to establish that just cause exists. While just cause is not defined in the procedure itself, prior IHO proceedings between

the parties reflect the application of a conventional two step just cause analysis consisting of (1) did MPS establish that misconduct occurred and, if so (2) does the level of discipline imposed by MPS reflect the seriousness of misconduct. As to the level of discipline imposed, the MPS Employee Handbook provides in part:

[D]iscipline is progressive in nature and requires communication with employees.... Disciplinary action may include: written reprimand, suspension, demotion, or termination of employment. Specific disciplinary actions will depend on the behavior and frequency of occurrences. *Id.*, p.9.

All parties are in general agreement of the following and a video of the incident confirms the events in question. Douglas works as a social worker for MPS and has been employed 23 years in that capacity with no disciplinary history. On February 14, 2024, Douglas was confronted and verbally assaulted by a parent of a student. The parent entered the administrative office area and began to yell profanities at Douglas, who was in her office which was behind a separation barrier/counter. The anger of the parent was apparently based on the belief that Douglas had reached out to Child Protective Services regarding the parenting being given to the student in question. Douglas proceeded to leave her office and engage in a heated verbal exchange with the parent. At some point early on in this melee, Principal Caldwell appeared and started to verbally direct Douglas to go back to her office. Caldwell initially was focused on the parent and trying to diffuse the altercation, but at some point Douglas proceeded to go to the other side of the counter and be in closer proximity to the parent, at which point Caldwell's attention was altered to that of Douglas where he was creating a physical barrier to hold her back from a physical altercation while repeatedly directing her to go back to her office. Douglas continued to yell and be verbally confrontational with the parent. The situation continued to escalate with several other staff helping to restrain the parent, though at one point the parent threw some folders/papers at Douglas. Eventually, Caldwell was able to direct Douglas back into her office and remove her from the situation.

After review, MPS found that Douglas was in violation of the following policies and rules:

- A) Violation of Administrative Policy 6.07: Employee Rules of Conduct (2)(h, n, & q)
- B) Violation of Employee handbook: Core Beliefs, Customer Service, Professional Conduct, Employee Rules of Conduct, & Workplace Violence Prevention
- C) Violation of School Staff Manual: 1.01 Core Beliefs; 3.01 Employee Rules of Conduct; & 3.03 Professional Conduct and Attire

Douglas was given a letter of reprimand as a result of MPS' determination of those violations.

DISCUSSION

There is no material dispute between the parties as to the events that occurred or the violations allegedly having taken place.

Douglas' primary argument is that, under a just cause determination, credit should be given to her 24 years of disciplinary free service to MPS. And that while a letter of reprimand is the lowest form of discipline that can be given, it is a source of pride to Douglas that her career has been otherwise exemplary and void of anything other than recognition of service to MPS to the best of her ability.

While the lack of previous disciplinary actions can legitimately provide a challenge to the level of discipline handed to an employee under the just cause standard as a mitigating element, it is hard to do so in this matter when the discipline given was at the lowest level and no economic harm in the form of a suspension or otherwise is present. Had MPS issued a more severe level of discipline, a stronger consideration of this argument would be warranted. Certainly Ms. Douglas' 24 years working in a challenging environment and being the target of verbal assaults by parents, and doing so in a professional a tactful manner is well deserving of recognition and accolades. However, for purposes of overturning this level of discipline it can not form an adequate basis for such. While never expressly stated or made part of the record, it is very likely that MPS did take into account the stellar career of Douglas in making the determination to give the least amount of discipline possible in this matter as, given the escalation of events that day and the failure of Douglas to conform to Caldwell's direction to diffuse the situation, MPS certainly could have imposed a higher level of discipline had it chosen to do so.

In upholding the discipline, it should be noted that employees should not have to suffer from the treatment that Douglas received in this instance. The parent was verbally and physically abusive towards her, and in no way is that excusable or condoned. Douglas has a very difficult job and deserves every acknowledgment and appreciation that can be afforded to her. However, it needs to also be noted that Douglas had the ability to stay in her office which included a locked door and to avoid and diffuse the situation by declining to engage. Instead, Douglas proceeded to join the altercation and crossed the counter while ignoring the commands of her employer, Principal Caldwell.

CONCLUSION AND ORDER

As stated earlier, MPS has the burden to establish the misconduct occurred. There is no material argument as to the events that occurred and the policies that were violated by Douglas. While Douglas has no disciplinary history, it can not be a mitigating factor in this instance to expunge the letter of reprimand given to Douglas for her actions that day.

Given the foregoing, I conclude that MPS did have just cause to issue a letter of reprimand to Douglas.

Issued at Madison, Wisconsin, this 19th day of March 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James J. Daley, Impartial Hearing Officer