

BEFORE THE IMPARTIAL HEARING OFFICER

In the Matter of the Grievance of

J.K.

Under the Grievance Procedure of

MILWAUKEE PUBLIC SCHOOLS

Case ID: 22.0106

Case Type: IHO

Grievance No. FY25/186

DECISION NO. 41253

Appearances:

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

Marshall Traster, Attorney, 5225 W. Vliet Street, Milwaukee, Wisconsin appearing on behalf of Milwaukee Public Schools.

DECISION OF THE IMPARTIAL HEARING OFFICER

Pursuant to the request of the Milwaukee Public Schools (MPS), the Wisconsin Employment Relations Commission assigned Peter G. Davis to serve as an Independent Hearing Officer regarding a ten-day suspension grievance filed by J.K. A zoom hearing was held on October 16, 2025, and the parties made oral argument at the conclusion of the hearing.

As authorized by the MPS grievance procedure, I made efforts to mediate the dispute during the hearing and made a settlement proposal. The proposal was accepted by J.K. on October 16, 2025. On October 30, 2025, MPS advised that it did not accept the settlement proposal. The parties then agreed that I should proceed to issue a decision.

It is undisputed that approximately one minute of highly inappropriate student behavior occurred on an outside playground that J.K. was supervising by himself. The behavior occurred inside a play structure that was not easily monitored and at a time when J.K. had begun to get students lined up to return inside. There is some evidence that the students involved may have planned their actions for a time when they knew J.K. would be occupied with the line up process. There is also evidence that Head Start may have previously shut down a program at the same playground due to difficulties with supervision. Following the incident in question, MPS began assigning two employees to supervise the playground.

J.K. can be faulted for not circling the entire play structure as part of his supervision. Had he done so, it is unlikely but possible that he may have deterred students from engaging in the behavior. Therefore, he did engage in misconduct within the meaning of the applicable just cause standard and some level of discipline is appropriate.

The MPS imposed a 10-day suspension on J.K., at least in part based on prior one day and three day suspensions received in 2017 and 2018, respectively. In my judgment, discipline received eight and seven years ago should be largely discounted as part of a just cause level of discipline analysis. More significantly, it is apparent there was little J.K. could have done to prevent the student conduct. Lastly, MPS can be faulted for having inadequate staffing on the playground. Given all of the foregoing, I am satisfied that a one-day suspension is the appropriate level of discipline. J.K. should be made whole for lost wages and benefits.

Issued at Madison, Wisconsin, this 12th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Impartial Hearing Officer