

BEFORE THE IMPARTIAL HEARING OFFICER

In the Matter of the Grievance of

JAMES ROBINSON

Under the Grievance Procedure of

MADISON METROPOLITAN SCHOOL DISTRICT

Case ID: 88.0070

Case Type: IHO

DECISION NO. 41295

Appearances:

Will Kramer, Attorney, Pines Bach, 122 W. Washington Ave., Suite 900, Madison, Wisconsin, appearing on behalf of James Robinson.

Mark S. Kapocius, Attorney, von Briesen & Roper, 411 E. Wisconsin Ave., Suite 1000, Milwaukee, Wisconsin, appearing on behalf of the Madison Metropolitan School District.

DECISION OF THE IMPARTIAL HEARING OFFICER

On August 14, 2024, the Wisconsin Employment Relations Commission received a request from James Robinson to appoint Katherine Scott Lisiecki, a member of the Commission's staff, to serve as the Impartial Hearing Officer (IHO) in a proceeding concerning Robinson's suspension. A hearing was held on September 15, 2025, in Madison, Wisconsin. The hearing was transcribed, and the parties submitted written closing arguments on November 7, 2025. Having considered the evidence, the arguments of the parties, and the record as a whole, I issue the following decision.

ISSUE

Did the Madison Metropolitan School District have just cause to issue discipline to James Robinson in the form of a 3-day suspension? If not, what is the appropriate remedy?

FACTS

James Robinson (Robinson) works as a Special Education Assistant (SEA) at Southside Elementary School, part of the Madison Metropolitan School District (MMSD). *See* Transcript, pg. 165.

During the course of his employment, Robinson had a number of disciplinary issues, for which he was issued a written verbal warning, a reprimand, a letter of expectation, and, in one other case, a suspension. *See Exhibits 2, 3, 4, 5, 7.* On one of these occasions, Robinson was warned about tardiness. *See Exhibit 2.* On another, he was reprimanded for attendance issues and failure to follow absence reporting protocols. *See Exhibit 4.*

An investigative hearing was held on November 13, 2023. *See Exhibit 9.* The investigation letter did not specify what Robinson was being investigated for, only that he was being investigated for “alleged misconduct.” *Id.* On November 27, 2023, Southside Elementary Assistant Principal Annabel Torres issued Investigation Findings regarding the November 13 meeting. *See Exhibit 10.*

In the Investigative Findings, MMSD alleged that Robinson failed to follow the attendance policy. Torres testified that Robinson’s start time at the beginning of the year was 7:25 a.m. but was changed to 8 a.m. a few days into the semester. *See Transcript, pg. 114.* However, Kelly-Rose Cates, one of the teachers Robinson worked with, testified that Robinson’s schedule was always changing throughout the school year. *Id.* at 16. Robinson also testified that his schedule changed frequently. *Id.* at 166 – 168. Robinson further testified that two of his supervisors, Candace Terrell and Darlinne Kambwa-Bell, told him that he could clock in earlier. *Id.* at 167. Neither Terrell nor Kambwa-Bell testified at the hearing. Robinson further testified that administrators frequently saw him at the school before 8 a.m. *Id.* at 173. Natalie Annis, an employee relations specialist, testified that there were no students on-site when Robinson clocked in at approximately 7:30 a.m. *Id.* at 29. However, Cates testified that Southside Elementary was an early-start school, so doors opened at 7:20 a.m. She testified that students had a “soft start” getting breakfast, and that support was needed from 7:45 to 8 a.m. when students transitioned from the cafeteria to their classrooms. *Id.* at 15.

Robinson’s timecard shows that he clocked in before 8 a.m. on 14 days in October and November 2023, and a half hour after 8 a.m. on one occasion. *See Exhibit 19.* Emails show that, on one additional occasion in September, Robinson arrived late. *See Exhibit 20, pgs. 3 – 4.* Torres testified that after she met with Robinson on November 13, 2023, and informed him that he was not supposed to come in at 7:25 a.m., he ceased to do so. *See Transcript, pg. 76.* Robinson’s timecard supports this. *See Exhibit 19.*

On two other occasions, MMSD alleged that Robinson left work early or failed to follow absence reporting protocols. On October 31, 2023, there was an early release day for a professional development session that afternoon. *See Transcript, pg. 173.* Robinson went home and attended the professional development session remotely. *Id.* at 174. However, he failed to notify his supervisors that he was leaving the building. *See Exhibit 20, pg. 5.*

On November 3, 2023, Robinson requested time off to care for siblings and attended a virtual professional development training. *See Transcript, pg. 176.* He requested time for attending the training. *See Exhibit 20, pg. 6.* Terrell replied via email that Robinson didn’t submit his approval correctly because he did not have the option to work virtually. *See Transcript, pgs. 51 – 52.*

In the Investigative Findings, MMSD alleged that Robinson falsely reported his time. Robinson testified that he was never given training on how to enter his time in Frontline. *See* Transcript, pg. 179. He testified that, for his first year, he was never asked to enter his time in Frontline, and instead he would email a staffer. *Id.* However, his October 13, 2022, written verbal warning directed Robinson to record his absences on Frontline. *See* Exhibit 2. Likewise, the June 5, 2023, written reprimand also directed him to enter his absences on Frontline. *See* Exhibit 4. In addition to these letters, Robinson received several emails reminding him to fill in his absences on Frontline. *See* Exhibit 20.

Southside Elementary School shares a building with Badger Rock Middle School. MMSD further alleged that Robinson repeatedly entered the Badger Rock side of the building when he shouldn't have. *See* Exhibit 10. On October 5, 2023, Torres emailed Robinson and other Southside Elementary staff reminding them not to let students use the bathrooms on the Badger Rock side of the building. *See* Exhibit 20, pg. 3. On November 2, 2023, Terrell emailed Robinson to ask him not to be on Badger Rock premises after school hours. *Id.* at 5. Annis testified that the room numbers 126, 137, 1108SS, 1109SS, 2013, 1200B, 2100, 1015, 2018, and 1014 were Badger Rock room numbers. *See* Transcript, pg. 59. Robinson's key card log shows that from November 3, 2023, and November 7, 2023, he accessed these room numbers sixteen times during school hours. *See* Exhibit 8, pgs. 45 – 47. In the hearing, Robinson admitted to using the Badger Rock doors to take students to recess. *See* Transcript, pg. 181. However, he also testified that other Southside Elementary staff used Badger Rock doors. *Id.* at 181.

On January 4, 2024, Torres issued Robinson a three-day suspension. *See* Exhibit 11. Echoing the Investigative Findings, the letter stated that Robinson had violated Employee Handbook Sec. 3.3, Attendance; Sec 3.1, District Expectations; and Sec. 3.16, False Reports. *Id.* It directed Robinson to punch in or out no more than five minutes before or after his designated star time; to email administrators by 6 a.m. if Robinson would be absent; to fill out the staff absence reporting form each day he is absent; to record his absence on Frontline; to email administrators if he planned to arrive later than his scheduled start time; to sign into the office upon arrival if tardy; and to adhere to his work schedule. *Id.*

On February 3, 2024, Robinson filed a grievance regarding his suspension. *See* 12.

DISCUSSION

The Standard of Review

I begin my discussion by first addressing the standard of review. Part 8.03 (2) of MMSD's Employee Handbook states: "Except as provided in paragraph one above, no teacher shall be disciplined or terminated without just cause." Thus, employee discipline will be reviewed under a just cause standard. Although the Handbook does not define just cause, a finding of just cause generally requires the employer to prove that (1) the employee committed conduct for which discipline is warranted and (2) the discipline issued is consistent with the seriousness of the misconduct.

MMSD bears the burden of proving, by a preponderance of the evidence, that there was just cause for the discipline.

The Merits

The first issue is whether Robinson committed misconduct for which discipline is warranted. In its January 4, 2024, suspension letter, MMSD alleged that Robinson violated the attendance policy (Employee Handbook Section 3.3), District expectations (Section 3.1), and false reports policy (Section 3.16). *See* Exhibit 11.

The attendance policy requires employees to adhere to their assigned schedules and deviate from these only with prior approval from their supervisor. Employees who are unable to report for work are required to follow District reporting procedures for reporting absences; specifically, in Robinson's case, by calling Absence Management no later than 6 a.m. Section 3.3 defines "tardiness" as "failing to report to work at the scheduled start time of an employee's shift or workday [and] may also include any instances where an employee has punched in at the start of their scheduled shift or workday, but who is not prepared to actually begin working at that time."

Here, MMSD failed to carry its burden of proving that Robinson's start time was 8 a.m. on the dates in question. There was conflicting testimony about when Robinson was scheduled to start work and whether he was working during that time. MMSD also failed to disprove Robinson's testimony that he had permission from Terrell to arrive at school earlier, since neither Terrell nor Kambwa-Bell testified at the hearing. However, the evidence does show that Robinson arrived late on two occasions. *See* Exhibit 19, Exhibit 20, pgs. 3 – 4. On another occasion – October 31, 2023 – Robinson failed to notify his supervisors that he was leaving the building before going home to attend a professional development session remotely. *See* Transcript at 174, Exhibit 20, pg. 5.

The District expectations policy requires employees to produce quality work, maintain confidentiality, work efficiently, be professional and courteous, and comply with standards of conduct and other regulations or guidelines. Although neither the investigatory findings nor the suspension letter made this clear, this seems to refer to the allegations that Robinson was inappropriately accessing Badger Rock doors. However, MMSD failed to prove that Robinson was given adequate notice that he was not supposed to use Badger Rock doors. Staff were told not to let students use Badger Rock bathrooms, and Robinson was personally told not to be on the Badger Rock premises after school hours. *See* Exhibit 20, pgs. 3, 5. However, neither of these refer to the behavior that Robinson admitted to, and which seems to be demonstrated by his key card log: using the doors to take students to recess. MMSD further failed to disprove Robinson's claim that other employees used Badger Rock doors.

Lastly, the false reports policy prohibits employees from filing false reports or statements regarding attendance reports. The exhibits clearly show that Robinson was repeatedly told to record his absences in Frontline. *See* Exhibit 2, 4, Exhibit 20. Robinson testified that he was never given training on how to enter his time in Frontline. *See* Transcript, pg. 179. Given the multiple warnings he received during his years of employment with the District, Robinson should have

asked for training or assistance to learn how to use Frontline. His failure to properly report his absences constitutes a false report about his presence at work.

Robinson was late on two occasions, left campus early without permission on one occasion, and failed to properly record his absences in Frontline. The second issue is whether the discipline issued – a three-day suspension – was consistent with the seriousness of the misconduct.

Robinson presented several comparable employees who were also disciplined for attendance and false reporting. One employee, Christopher Swiggum, received a one-day suspension for consistently arriving at least a half hour late between November 2023 and April 2024 and failing to notify his supervisor. *See* Exhibit I. Another employee, Kaylonnie Stevenson, received a written reprimand for arriving late to work four times in a month without notifying her supervisor and, on one occasion, claiming she was at work when she was not on site. *See* Exhibit J.

Here, Robinson's proven misconduct is not more egregious than that of these comparable employees listed above. Swiggum's tardiness was more frequent than Robinson's proven tardiness or absences, but Swiggum's failure to report properly was less egregious to Robinson's, which continued despite repeated reminders to fix his behavior. Robinson arrived late to work less frequently than Stevenson; however, Robinson more frequently failed to properly report his absences, whereas Stevenson only claimed to be at work while not on site once. Because Robinson committed misconduct by arriving late, leaving without permission, and consistently failing to properly report his absences, MMSD had just cause to issue Robinson a one-day suspension. However, because Robinson's conduct was not more egregious than similarly situated employees, MMSD did not have just cause to issue him a three-day suspension.

For the reasons set forth above, I find that MMSD did not have just cause to issue James Robinson a three-day suspension but did have just cause to issue him a one-day suspension. Accordingly, I issue the following:

DECISION

MMSD did not have just cause to suspend James Robinson for three days but did have just cause to suspend him for one day. Therefore, Robinson shall have the discipline modified in his record and be made whole in all other respects.

Issued at Madison, Wisconsin, this 4th day of February 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Katherine Scott Lisiecki, Impartial Hearing Officer