

BEFORE THE IMPARTIAL HEARING OFFICER

In the Matter of the Grievance of

ANGELICA DAVIS

Under the Grievance Procedure of

MILWAUKEE PUBLIC SCHOOLS

Case ID: 22.0105

Case Type: IHO

DECISION NO. 41330

Appearances:

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

Marshall Traster, Attorney, 5225 West Vliet Street, Milwaukee, Wisconsin, appearing on behalf of the Milwaukee Board of School Directors and Milwaukee Public Schools.

DECISION OF THE IMPARTIAL HEARING OFFICER

On July 22, 2025, the Wisconsin Employment Relations Commission received a joint request from the Milwaukee Public Schools and Angelica Davis to appoint Katherine Scott Lisiecki, a member of the Commission's staff, to serve as the Impartial Hearing Officer (IHO) in a proceeding concerning Davis's suspension. A hearing was held on October 2, 2025, by video conference. The parties made oral closing arguments at the hearing, and the hearing was transcribed. Having considered the evidence, the arguments of the parties, and the record as a whole, I issue the following decision.

ISSUE

Did the Milwaukee Public Schools have just cause to issue discipline to Angelica Davis in the form of a three-day unpaid suspension and a letter of discipline? If not, what is the appropriate remedy?

FACTS

Angelica Davis (herein, Davis) works as a four-year-old kindergarten (herein, K4) teacher at the Jeremiah Curtin Leadership Academy (herein, JCLA), part of the Milwaukee Public Schools (herein, MPS). Davis previously received a letter in her personnel file after a March 2024 incident in which a student was left alone in a classroom for 30 minutes. *See* MPS Exhibit 4, pg. 30.

On September 9, 2024, Davis's K4 class went out to the Academy's "tot lot" playground for extra recess time. There were two large openings in the "tot lot" fencing. *See* Davis Exhibit D; MPS Exhibit 5, pg. 7. Davis had a special needs student in her class (herein, Student A). When Davis was counting and gathering the students to return inside, Student A left the playground and the school premises. *See* Transcript, pgs. 169 – 170. An employee at Van Horn Auto, a few blocks away from the Academy, found Student A as he was trying to cross the street. When she realized Student A was missing, Davis radioed social worker Samantha Gager. Her call was overheard by school secretary Emma Rios and parent coordinator Diana Sotelo. Rios told principal Veronica Leshok, who called all staff to search for Student A. *See* Exhibit 4, pg. 5. Sotelo asked Davis what Student A was wearing, and Davis said she didn't know. However, Davis later told another teacher that Student A was wearing a baby blue shirt. It was later determined that Student A was wearing a blue-and-cream striped shirt.

A disciplinary hearing was held on September 12, 2024. *See* Exhibit 6, pg. 1. On December 20, 2024, Hearing Officer Sandra Cohen issued Davis a three-day suspension and a letter of discipline. *See* Exhibit 6. On January 10, 2025, Davis filed a grievance regarding her discipline. *See* Exhibit 7, pg. 1. On February 18, 2025, Employment Relations Specialist James Dunn issued a written decision denying Davis's grievance. *Id.* at 5. On March 5, 2025, Davis filed a grievance regarding Dunn's decision. *Id.* at 8.

DISCUSSION

The Standard of Review

I begin my discussion by first addressing the standard of review. Part II (B) of MPS's Employee Handbook states that "non-probationary employees shall only be disciplined or discharged for 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.

Part II (B) of the Employee Handbook further states that MPS has a policy of progressive discipline, which depends "on the specific behavior and the frequency of occurrences." In other words, serious behaviors may justify departure from progressive discipline, though the provision does not specify which behaviors may warrant departure from progression.

MPS bears the burden of proving that there was just cause for the discipline. *See* MPS Exhibit 1, pg. 37.

The Merits

The first issue is whether Davis committed misconduct for which discipline is warranted. Admin Policy 6.07 Employee Rules of Conduct (2)(h and q) prohibits employees from "Failure,

refusal, or negligence in the performance of assigned duties” or “Failure or refusal to comply with school/ department work rules, policies, or procedures.” *See* MPS Exhibit 4, pgs. 17 - 18. Further, the JCLA Staff Manual, Sec. 5.13: Missing Students, states that “Students who leave the classroom or building without permission and are not with an escort must be reported at once to the office.” *See* MPS Exhibit 4, pg. 26. JCLA Staff Manual, Sec. 6.01: Classroom Expectations and Supervision of Students, states that “Any staff member charged with the supervision of a student or students shall not leave the student or students unsupervised for any amount of time, regardless of location or conditions.... All staff members are expected to: ... Proactively supervise all students at all times.... No students are to be left unsupervised under any circumstances.” *See* MPS Exhibit 4, pg. 27. Lastly, JCLA Staff Manual, Sec. 6.02: Grounds/ Playground Supervision, states that “Staff who are responsible for monitoring students in play areas shall not leave students unattended and must ensure that all students are accounted for immediately upon return to the classroom.” *See* MPS Exhibit 4, pg. 28.

Here, MPS alleges that Davis was negligent when she allowed Student A to escape. However, the record shows that MPS was negligent in allowing the “tot lot,” a playground for very young students located right next to the street, to remain unfenced. If MPS had properly secured the playground, Student A would likely have been unable to escape from Davis’s supervision and leave school grounds.

MPS further alleges that Davis failed to follow the recess or reporting protocols, since she called a social worker instead of the front office. However, Davis sent a paraprofessional to the office to get a walkie talkie and believed the paraprofessional communicated that Davis was taking her class outside for recess. When Davis realized Student A was missing, she sought help immediately, even if she did mistakenly call the wrong person. Davis’s radio call reached the office, and no time was lost searching for Student A due to her mistake.

Lastly, MPS alleges that Davis failed to correctly report what Student A was wearing after he eloped. Sotelo testified that Davis told her (Sotelo) that she (Davis) didn’t know what Student A was wearing, then told another teacher that he was wearing a baby blue shirt (Student A was in fact wearing a blue-and-cream striped shirt). However, this incident occurred at the beginning of the school year, when Davis had only known her students for about two and a half days. Even if the incident had occurred later in the year, Davis cannot be expected to accurately remember what every student is wearing each day. Davis gave her best guess in an effort to be helpful. There was no attempt to mislead, just an honest mistake.

In conclusion, Davis was not negligent when she was supervising her students on the playground. MPS was primarily responsible for making the playground secure. The preponderance of the evidence establishes that Davis did not commit the misconduct of which she is accused. Therefore, there was not just cause for MPS to issue her a three-day suspension and a letter of discipline.

For the reasons set forth above, I find that MPS did not have just cause to suspend Angelica Davis. Accordingly, I issue the following:

DECISION

MPS did not have just cause to issue discipline to Angelica Davis in the form of a three-day suspension and a letter of discipline. Therefore, Davis shall have the discipline stricken from her record and be made whole in all other respects.

Issued at Madison, Wisconsin, this 9th day of March 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by: Katherine Scott Lisiecki

Katherine Scott Lisiecki, Impartial Hearing Officer