

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TRISHA BENA-KUEFFER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF HEALTH SERVICES, Respondent.

Case ID: 2.0186

Case Type: PA

DECISION NO. 41234

Appearances:

Sean Heiser, 1616 East Road 2, Edgerton, Wisconsin, appearing on behalf of Trisha Bena-Kueffer.

David Makovec, Attorney, Department of Administration, 101 E. Wilson Street, 10th Floor, P.O. Box 7864, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Health Services.

DECISION AND ORDER

On August 5, 2025, Trisha Bena-Kueffer filed an appeal with the Wisconsin Employment Relations Commission asserting that she had been suspended for one day without just cause by the State of Wisconsin Department of Health Services (DHS).

A hearing was held in Madison, Wisconsin on October 22, 2025, by Commission Chairman Peter G. Davis. DHS made oral argument at the conclusion of the hearing and Bena-Kueffer filed written argument on October 27, 2025.

Being fully advised on the premises and having considered the matter, the Commission makes and issues the following:

FINDINGS OF FACT

1. Trisha Bena-Kueffer is employed by the State of Wisconsin Department of Health Services (DHS) as a Teacher at Mendota Mental Health Institute. She had permanent status in class when she was suspended.

2. Bena-Kueffer was directed not to tell a youth about an upcoming off-site medical appointment. She did so anyway.

Based on the above and foregoing Findings of Fact, the Commission makes and issues the following:

CONCLUSIONS OF LAW

1. The Wisconsin Employment Relations Commission has jurisdiction over this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Health Services did have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Trisha Bena-Kueffer for one day.

Based on the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following:

ORDER

The one-day suspension of Trisha Bena-Kueffer by the State of Wisconsin Department of Health Services is affirmed.

Issued at Madison, Wisconsin, this 4th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

Section 230.34(1)(a), Stats., provides in pertinent part the following as to certain employees of the State of Wisconsin:

An employee with permanent status in class ... may be removed, suspended without pay, discharged, reduced in base pay or demoted only for just cause.

Section 230.44(1)(c), Stats., provides that a State employee with permanent status in class:

may appeal a demotion, layoff, suspension, discharge or reduction in base pay to the commission ... if the appeal alleges that the decision was not based on just cause.

Bena-Kueffer had permanent status in class at the time of her suspension and her appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that Bena-Kueffer was guilty of the alleged misconduct and that the misconduct constitutes just cause for the discipline imposed. *Reinke v. Personnel Bd.*, 53 Wis.2d 123 (1971); *Safransky v. Personnel Bd.*, 62 Wis.2d 464 (1974).

As reflected in Finding of Fact 2, the Commission has concluded that the State met its burden. Bena-Kueffer chose to ignore a directive and was thereby insubordinate.

In her defense, she claims that youth often manage to find out about matters that are to occur and points to one instance in which information about an upcoming on-site event was communicated to youth. That defense is irrelevant. She had an obligation to follow a specific directive and she chose not to do so. She was thereby insubordinate and engaged in misconduct.

Insubordination reflects a failure to follow a fundamental employee obligation-do as you are told. There can be no question that there is just cause for a one-day suspension for choosing to violate this fundamental obligation.

Given the foregoing, the Commission affirms the suspension.

Issued at Madison, Wisconsin, this 4th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman