

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MIRANDA PETERLIK, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0720

Case Type: PA

DECISION NO. 41258

Appearances:

Miranda Peterlik, 307 Royal Avenue, Edgar, Wisconsin, appearing on her own behalf.

Michelle Zaccard, Attorney, Department of Corrections, 3099 East Washington Ave., PO Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On February 24, 2025, Miranda Peterlik filed an appeal with the Wisconsin Employment Relations Commission regarding her non-selection by the State of Wisconsin Department of Corrections (DOC) for a position as Nurse Clinician III.

A zoom hearing was held on May 7, 2025, by then Commission Examiner Peter G. Davis. The parties thereafter filed written argument-the last of which was received September 23, 2025.

Having considered the matter, the Commission makes and issues the following

FINDINGS OF FACT

1. Miranda Peterlik, herein Peterlik, applied to be a Nurse Clinician III employed by the State of Wisconsin Department of Corrections (DOC).

2. Peterlik was interviewed but was not rated “acceptable” by the interview panel. Based on the panel’s rating, Peterlik’s application did not receive further consideration, and she was not hired.

3. At least a majority of the interview panel rated Peterlik solely based on her answers to the questions during the interview.

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

CONCLUSIONS OF LAW

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

2. The decision of the State of Wisconsin Department of Corrections to end its consideration of Miranda Peterlik's application following her interview was not illegal or an abuse of discretion within the meaning of Wis. Stat. § 230.44(1)(d).

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

ORDER

The appeal filed by Miranda Peterlik is dismissed.

Issued at Madison, Wisconsin, this 25th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

MEMORANDUM ACCOMPANYING DECISION AND ORDER

This case is before the Commission under authority provided in Wis. Stat. § 230.44(1)(d), on the basis of Appellant's allegation that DOC's decision to end its consideration of her application to be a Nurse Clinician III violated the law and/or was an abuse of discretion.

Wisconsin Stat. § 230.44(1)(d), provides in relevant part:

(d) Illegal action or abuse of discretion. A personnel action after certification which is related to the hiring process in the classified civil service and which is alleged to be illegal or an abuse of discretion may be appealed to the Commission.

In *Zeiler v. Department of Corrections*, Dec. No. 31107-A (WERC, 12/04), the Commission stated that *Neldaughter v. DHFS*, Case No. 96-0054-PC (Pers. Comm. 2/14/97) summarizes the Commission's interpretation of "abuse of discretion" as follows:

An "abuse of discretion" is "a discretion exercised to an end or purpose not justified by, and clearly against reason and evidence." *Lundeen v. DOA*, Case No. 79-0208-PC (Pers. Comm. 6/3/81). As long as the exercise of discretion is not "clearly against reason and evidence," the commission may not reverse an appointing authority's hiring decision merely because it disagrees with that decision in the sense that it would have made a different decision if it had substituted its judgment for that of the appointing authority. (Citations omitted)

In this matter, Peterlik asserts that the interview process was fatally flawed by the presence and influence of an interview panel member who was biased against her. Even if there was no improper influence on the two non-biased panel members, she contends the ratings made by those panel members were incorrect.

As noted above and as DOC correctly argues, the Commission does not substitute its judgment as to how a candidate is rated so long as the rating is not "clearly against reason and evidence" The two "non-biased" panel members credibly testified that their ratings were based exclusively on Peterlik's answers to the interview questions and a review of their interview notes does not call their testimony into question. Therefore, this argument is rejected.

As to Peterlik's argument regarding the allegedly biased panel member, it is undisputed that the panel member and Peterlik had previously tangled during Peterlik's prior employment with DOC. Thus, Peterlik could reasonably be concerned as to whether that panel member could rate her strictly on her interview answers and/or could improperly influence the ratings of other panel members. DOC correctly cites a 2017 Commission decision, *Rakowski v. DWD*, Dec. No. 36969 (WERC, 9/17), for the proposition that actual bias by a majority of a rating panel is needed to overturn a hiring recommendation. DOC contends that there is no evidence of actual bias in this matter and, even if such evidence existed, it did not influence a panel majority.

DOC is entitled to rely on the *Rakowski* precedent for the purposes of this matter. The record does not support a finding of actual bias by a majority of the panel members in question.¹ However, the Commission hereby provides notice to the State that as to hiring panels convened on or after January 2, 2026, the Commission will find it to be an “abuse of discretion” if an interview panel member can reasonably be viewed by an applicant as potentially biased. Applicants are entitled to a hiring process free of the appearance of bias. Violation of this new standard will require that the hiring process be repeated by a panel free of said appearance.

Issued at Madison, Wisconsin, this 25th day of November 2025.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Chairman

¹ The Commission need not and does not make a finding as to whether the panel member in question was or was not actually biased.