STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

TAYLOR DUPLAYEE, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0833
Case Type: PA

DECISION NO. 41273

Appearances:

Sean Daley, Business Agent, AFSCME Council 32, AFL-CIO, N1463 Second St. Rd., Watertown, Wisconsin, appearing on behalf of Taylor Duplayee.

Nicole Porter, 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 Corrections.

DECISION AND ORDER

On October 3, 2025, Taylor Duplayee filed an appeal with the Wisconsin Employment Relations Commission asserting that she had been suspended without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

A hearing was held via Zoom on December 10, 2025, by Examiner Lisiecki. The parties made oral closing arguments at the end of the hearing. On December 22, 2025, Examiner Lisiecki issued a Proposed Decision and Order, rejecting the three-day suspension of Duplayee by the DOC. No objections to the Proposed Decision were filed by the parties and the matter became ripe for Commission consideration on December 30, 2025.

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

FINDINGS OF FACT

1. Taylor Duplayee (Duplayee) is employed by the State of Wisconsin Department of Corrections (DOC), as a Youth Counselor at Copper Lake/Lincoln Hills School. She had permanent status in class when she was suspended.

2. On May 6, 2025, Duplayee gave a youth the middle finger and called him an "asshole."

3. In her investigatory interview, Duplayee admitted to using the word "fuck" several times around other staff.

4. Following an investigation, the DOC suspended Duplayee for three days for harassing, treating discourteously, or using profane and abusive language in dealing with others, and failure to comply with written agency policies or procedures.

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 Corrections did not have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Taylor Duplayee for three days.

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

ORDER

The three-day suspension of Taylor Duplayee by the State of Wisconsin Department of Corrections is rejected, and she shall be made whole with interest.[1]

Issued at Madison, Wisconsin, this 8th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Peter G. Davis, Chairman

[1] *See* Wis. Admin. Code § ERC 94.07.

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.

Taylor Duplayee 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 Duplayee was guilty of the alleged misconduct and that the misconduct constitutes just cause for the discipline imposed. R*einke v. Personnel Bd.*, 53 Wis.2d 123 (1971); *Safransky v. Personnel Bd.*, 62 Wis.2d 464 (1974).

Taylor Duplayee (Duplayee) was employed by the State of Wisconsin Department of Corrections (DOC) as a Youth Counselor at Copper Lake / Lincoln Hills School. It is uncontested that, on May 6, 2025, Duplayee gave a youth the middle finger and called him an "asshole." In her investigatory interview, Duplayee also admitted to using the word "fuck" several times around other staff. *See* Exhibit R-7, pg. 4.

Duplayee argues that her interaction was a mutual, joking exchange with a youth that she had a good rapport with. She testified that she did not say these words in a hostile or harassing way. The youth continued on his way, did not react negatively, and did not report Duplayee. Duplayee and Youth Counselor Brad Pepke testified that the youth at Copper Lake/Lincoln Hills School constantly use graphic, violent language, and that using profanity can be a way to connect with them. However, Warden Klint Trevino testified that staff must set an example, that the youth are unpredictable and volatile, and that staff should not use profane language around them in case it sets them off.

Duplayee argues that WERC precedent shows that using profanity is allowed in certain contexts. In *Peterson v. DOC,* the Commission found that the appellant did not commit misconduct by using a single word of profanity when getting a disruptive youth to comply during a team meeting. *See Peterson v. DOC*, Dec. No. 39411 (WERC, 4/22). Likewise, in *Nowak v. DOC,* the Commission found that the appellant's occasional use of vulgar or profane language towards youths was not misconduct, because youths often use profane language and the occasional use of profanity by staff is "consistent with the realities of seeking a positive relationship with juvenile offenders*." See Nowak v. DOC,* Dec. No. 37951 (WERC, 6/19). In contrast, in *Hafermann v. DOC*,

the Commission found that a correctional officer committed misconduct when, on two occasions, she directed profanity at inmates in an angry and derogatory manner. *See Hafermann v. DOC*, Dec. No. 39780 (WERC, 1/23). Likewise, in *Smith v. DOC*, the Commission found that a correctional officer committed misconduct when he instigated a fight with an inmate and then directed loud, aggressive profanity at the inmate rather than de-escalating the situation. *See Smith v. DOC*, Dec. No. 40385 (WERC, 7/24).

Here, the facts most closely resemble the situations in *Peterson* and *Nowak*, rather than those in *Hafermann* and *Smith*. Duplayee used a profane word and gesture in a joking manner while interacting with a youth with whom she had a positive rapport. Although not on par with the professionalism expected in most workplaces, Duplayee's occasional use of profanity is consistent with the realities of seeking a positive relationship with juvenile offenders. Unlike the appellants in *Hafermann* and *Smith*, Duplayee did not act angrily or derogatorily, nor did she escalate a situation. Duplayee's use of profanity in casual conversation with coworkers is similarly undeserving of discipline, because it was occasional and conversational, rather than frequent or derogatory. Because Duplayee did not commit misconduct, the DOC did not have just cause to issue her a three-day suspension. Therefore, Duplayee's three-day suspension is rejected, and she shall be made whole with interest.

Issued at the City of Madison, Wisconsin, this 8th day of January 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Peter G. Davis, Chairman