

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

---

D.G., Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION, Respondent.

Case ID: 291.0012

Case Type: PA

DECISION NO. 41293

---

**Appearances:**

D.G., 1230 N. Thompson Rd., Sun Prairie, Wisconsin, appearing on her own behalf.

Kyle Olson, Chief Legal Counsel, Wisconsin Department of Public Instruction, 201 W. Washington Avenue, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Public Instruction.

**DECISION AND ORDER**

On October 6, 2025, D.G. filed an appeal with the Wisconsin Employment Relations Commission asserting she has been discharged without just cause by the State of Wisconsin Department of Public Instruction (DPI). A zoom hearing in the matter was held by Commission Chairman Peter G. Davis on January 27, 2026. The parties filed written closing argument by January 30, 2026.

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

**FINDINGS OF FACT**

1. D.G. was employed by the State of Wisconsin Department of Public Instruction, (herein DPI) as an Accountant-Advanced and had permanent status in class at the time of her discharge.

2. D.G. provided incomplete and inaccurate information in social media posts and related comments, and her actions caused safety concerns among several of her co-workers.

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 to review this appeal pursuant to Wis. Stat. § 230.44 (1)(c).

2. The State of Wisconsin Department of Public Instruction did not have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to discharge D.G.

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

**ORDER**

D.G. shall be reinstated to paid status by the State of Wisconsin Department of Public Instruction without back pay.

Issued at the City of Madison, Wisconsin, this 3<sup>rd</sup> day of February 2026.

**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.

D.G. had permanent status in class at the time of her discharge and her appeal alleges that the discharge was not based on just cause.

The State has the burden of proof to establish that D.G. was guilty of the alleged misconduct and whether 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).

D.G. was discharged by DPI on September 22, 2025. The discharge letter states in pertinent part:

This termination is being imposed because of your egregious and excessive misconduct, which violated the following State of Wisconsin Work Rules and policies:

•#2: “Failure to comply with written agency policies or procedures.” *Specifically, policy bulletin #4.150 Social Media Usage.*

•#17: “Making false, inaccurate or malicious statements about another person or the employer.”

In accordance with Wis. Stat. § 230.04(13m), an appointing authority may accelerate progressive discipline if the inadequacy, unsuitability, or inferiority of an employee’s personal conduct or work performance is severe.

Specifically, prior to your scheduled return to work on September 2, 2025, you posted personal grievances regarding DPI on a public social media platform (Facebook). The content of your post included references to your administrative leave status, medical condition, supervisor, and dissatisfaction with the accommodation process. You also made additional comments under the post related to these topics, including references to civil complaints and an offer of separation under a non-disclosure agreement (NDA). The nature and content of

your post caused concern among staff; a DPI colleague who viewed the post expressed concern for their own safety and the safety of others.

Your post stated: "I was placed on Administrative Leave 4/24/25. I was diagnosed with Workplace Trauma/PTSD caused by my supervisor. My employer is refusing to acknowledge that diagnosis as well as the recommendation of allowable [sic] reasonable accommodation to be moved to a vacant position I am qualified for. My doctor submitted a fitness for duty form contingent on me being provided her recommended accommodation. My employer said no, I am to return to the same supervisor. My doctor told me she would only release me to return to work if I am supervised by someone else. Do I disregard my doctor's direct orders and risk hurting myself because my supervisor makes me fantasize about killing myself or do I give up my means of supporting my family? It's ridiculous that a State Agency is allowed to disregard a doctor's recommendation. My heart hasn't stopped racing since my work informed me when I return to work Tuesday for the first time since April, I will have no changes to my workplace. It is hard to know you mean so little to a place you worked for 8 years, and they are just trying to get rid of me."

In subsequent comments, you further stated:

•"Hey, I have been on FMLA, it is almost gone. My doctor will not renew my FMLA again if DPI is not willing to provide the accommodation she recommended because without it, she says I can never return. But they still won't provide it. I have 3 civil complaints against them, submit a request for assistance to the Governor. They offered me \$5k and an NDA to separate, but I don't want to stay silent."

•"I did not want to sign any NDA and not be able to tell my story. So that is why I am speaking out now."

According to the DPI Social Media Policy Bulletin, employees are advised:

•"Employees have no expectation of privacy when using social media."

•"Employees with a personal complaint about working conditions, co-workers, supervisor, or other matters involving their employment should discuss the matter with their supervisor or Human Resources rather than posting on social media."

In this instance, rather than continuing to work through your concerns and seek appropriate support through Human Resources, you chose to post these matters on a public platform. Your post and comments contain incomplete and inaccurate representations of the steps taken by DPI and do not reflect the full scope of engagement efforts made to support your return to work.

To clarify, DPI has not disregarded your medical diagnosis or your doctor's recommendations. The documentation provided was reviewed and determined to be insufficient to support the specific accommodation requested. DPI made multiple good-faith efforts to engage in the interactive process, including outreach to your medical providers, who declined to respond to follow-up questions intended to clarify the accommodations needed and assess your fitness for duty. In the absence of additional input from your medical providers, DPI relied on your stated requests and the existing medical documentation that had supported the accommodations implemented in November 2024. As a result, those accommodations remained in place.

Human Resources continued to coordinate with your supervisor to ensure reasonable accommodations were maintained, and mediation efforts between you and your supervisor were underway, as requested.

This behavior is unacceptable and will not be tolerated.

On September 05, 2025, an investigatory meeting was held with you. You chose not to have a personal representative during this meeting. Management was represented by Rachel Dietz, HR Program Officer and Maria Butters, HR Specialist Sr. During the meeting, you acknowledged making the Facebook post, as well as an additional post following your placement on paid administrative leave. You explained that you were unable to secure an appointment with your psychiatrist and, as a result, chose to express your feelings on social media. You also stated that you do not believe DPI has made a good faith effort to collaborate with you and your healthcare providers regarding your accommodation needs.

The record supports the DPI assertions that the social media commentary by D.G. was incomplete and inaccurate as to DPI's response to her accommodation request. The record also confirms that the social media content caused several co-workers to have safety concerns.<sup>1</sup>

D.G. argues that the content of her social media commentary was lawful concerted activity protected by Wis. Stats. § 111.82. The Commission disagrees. Her workplace safety concerns were focused on her personal issues and thus not sufficiently general in nature to implicate Wis. Stats. § 111.82.

D.G. contends that her discharge was in retaliation for her efforts to bring her concerns to the Governor and the Legislature and that she has "whistle-blower" status and protections. The record does not provide persuasive support for these contentions.

---

<sup>1</sup> The record in this matter is limited to the testimony and exhibits presented by the parties during the January 27, 2026, hearing as well as post-hearing argument. The additional post-hearing exhibits offered by D.G. are rejected. D.G. had ample opportunity to propose these exhibits prior to the hearing and did not do so.

D.G. asserts that the only reasonable safety concerns raised by her social media activity relate to her own safety in the workplace. The Commission disagrees. As D.G.'s co-workers could reasonably assume that D.G. knew one of them had provided information about the social media commentary to DPI, it was also reasonable for co-workers to have safety concerns.

Given the foregoing, the Commission concludes that D.G. did engage in social media misconduct which, in turn, caused co-workers to have safety concerns.

Turning to the issue of whether there was just cause for discharge, the Commission concludes that there are several factors that mitigate against that level of discipline.

Perhaps most significantly, the candid testimony of the DPI official who discharged D.G. revealed that his decision was based in part on job performance concerns. Those concerns are not stated in the discharge letter quoted above. It is axiomatic that the issue of just cause for discipline (and the due process right of the employee to defend) is limited to the basis set forth in the discipline letter. Thus, whatever those ongoing misconduct issues might be, they are beyond the scope of the Commission's just cause analysis in this matter. Therefore, the issue of just cause for discharge is limited to the social media content and the resultant co-worker safety concerns.

D.G.'s Facebook account was "private" with approximately 180 "friends" who had access. Thus, the reach of her incomplete and inaccurate information was limited. Even the co-worker who ultimately reported the material (and indeed D.G.'s supervisor) were not sure if it rose to the level of a matter that DPI should know about. These realities serve to mitigate the level of potential damage to DPI's standing and reputation caused by the posted information.

In light of the foregoing, the Commission concludes that discharge was too severe a penalty under the just cause standard but that there is just cause for the lengthy suspension caused by reinstatement to paid status without back pay.<sup>2</sup>

Issued at the City of Madison, Wisconsin, this 3<sup>rd</sup> day of February 2026.

## **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

Peter G. Davis, Chairman

---

<sup>2</sup>The Commission makes no determination as to the merits of the accommodation dispute. That issue is being litigated before a different State agency that has the jurisdiction to resolve that dispute.

The Commission makes no determination as to whether D.G.'s return to pay status warrants an actual return to the workplace or placement on paid administrative leave to further evaluate relevant matters such as whether her current condition allows for a safe return to the workplace. Either option is compliant with the Commission's Order.

Lastly, it is apparent that a settlement is in the best interests of all parties. The Commission is aware that the Department of Workforce Development can provide settlement assistance. The Commission also has skilled staff who could assist in that regard.