

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

ANTHONY GUNDERSON, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0859

Case Type: PA

DECISION NO. 41421

Appearances:

Anthony Gunderson, 830 Wilcox St., Waupun, Wisconsin, appearing on behalf of himself.

Elizabeth Longo, Attorney, Department of Corrections, 3099 East Washington Avenue, P.O. Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On December 12, 2025, Anthony Gunderson filed an appeal with the Wisconsin Employment Relations Commission asserting he had been suspended for one day without just cause by the State of Wisconsin Department of Corrections. The matter was assigned to Commission Examiner Cara Larson.

A Zoom hearing was held on February 16, 2026, by Examiner Larson. The parties made oral arguments at the conclusion of the hearing. On February 5, 2026, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Larson was granted final authority to issue the Commission's decision.

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

FINDINGS OF FACT

1. Anthony Gunderson (Gunderson) is employed by the State of Wisconsin Department of Corrections (DOC) as Nurse Clinician 3 at Dodge Correctional Institution (DCI) at the Bureau of Health Services (BHS) and had permanent status in class at the time of his suspension.

2. The DOC is a state agency responsible for the operation of various corrections facilities including the Dodge Correctional Institution, located in Waupun, Wisconsin.

3. On June 16, 2025, Gunderson was in a supervisor's office, given a letter notifying him of a one-day suspension, and in response he stated words to the effect of, "I honestly plan on shoving this right up their keister" and then exited the office.

4. On June 19, 2025, Gunderson attended another meeting with supervisory staff and Human Resources in a supervisor's office to review written expectations. Upon leaving the meeting, he crumpled up the written expectations.

5. The DOC suspended Gunderson for one day on October 30, 2025, for his behavior referenced in Finding of Facts 3 and 4.

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 Corrections did not have just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Anthony Gunderson 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 Anthony Gunderson by the State of Wisconsin Department of Corrections is rejected and he shall be made whole with interest.¹

Issued at Madison, Wisconsin, this 7th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Cara J. Larson

Cara J. Larson, Hearing Examiner

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.

Anthony Gunderson had permanent status in class at the time of his suspension, and his appeal alleges that the suspension was not based on just cause.

The State has the burden of proof to establish that Gunderson 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).

The material facts are not in dispute. Gunderson admits that he made the statement about “shoving the letter up their keister” and that, a few days later, he crumpled the written expectations provided to him. The record therefore establishes that he engaged in inappropriate workplace conduct.

The issue is not whether Gunderson’s behavior was professional, it was not, but whether the one-day suspension imposed was supported by just cause. The statement at issue was an expression of frustration made in a supervisory office. Likewise, the act of crumpling paper with the written expectations occurred in a meeting with supervisory staff. The conduct was unprofessional, however, it was brief, occurred in a private supervisory setting, and was not done in the presence of clients or subordinate employees. There is also no evidence that Gunderson refused to comply with the expectations that he crumpled up.

In determining the level of discipline, the Department considered prior Letters of Expectation addressing communication issues. While such letters serve to notify an employee of performance concerns, their existence does not automatically justify escalating subsequent conduct to a suspension. Gunderson acknowledged his actions, accepted responsibility, and did not attempt to shift blame. Testimony further indicated that, although frustrated, his demeanor was not described as threatening, profane, aggressive, or significantly disruptive.

Gunderson’s actions were ill-advised and warranted employer intervention. However, the one-day suspension was disproportionate to the offense and therefore not supported by just cause. The Commission therefore rejects the one-day suspension.

Issued at Madison, Wisconsin, this 7th day of April 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Cara J. Larson
Cara J. Larson, Hearing Examiner