

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

AMY PFLUEGER, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0873

Case Type: PA

DECISION NO. 41430

Appearances:

Andy Hulce, 105 W. North St., Boscobel, Wisconsin, appearing on behalf of Amy Pflueger.

David Gohn, Attorney, Department of Corrections, 3099 East Washington Ave., P.O. Box 7925, Madison, Wisconsin, appearing on behalf of the State of Wisconsin Department of Corrections.

DECISION AND ORDER

On January 12, 2026, Amy Pflueger (Pflueger) filed an appeal with the Wisconsin Employment Relations Commission asserting that she had been suspended for five-days without just cause by the State of Wisconsin Department of Corrections (DOC). The appeal was assigned to Commission Examiner Katherine Scott Lisiecki.

A hearing was held via Zoom on March 23, 2026, by Examiner Lisiecki. The parties submitted written closing arguments on March 31, 2026. On April 14, 2026, Examiner Lisiecki issued a Proposed Decision and Order affirming the five-day suspension of Pflueger by the DOC. On April 20, 2026, Pflueger filed objections to the Proposed Decision. On April 24, 2026, the DOC filed a reply to Pflueger's objections, and the matter became ripe for Commission consideration.

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

FINDINGS OF FACT

1. Amy Pflueger (Pflueger) is employed by the State of Wisconsin Department of Corrections (DOC), as a correctional officer at the Wisconsin Secure Program Facility (WSPF). She had permanent status in class at the time of her suspension.

2. On April 28, 2025, Pflueger observed an inmate standing on a sink, tightening a sweatshirt around his neck like a noose, and saying he was suicidal. Pflueger did not attempt to stop the behavior, walked away from the cell, and did not report the behavior.

3. Following an investigation, the DOC suspended Pflueger for five days for gross negligence.

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 had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Amy Pflueger for five days.

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

ORDER

The five-day suspension of Amy Pflueger by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 1st day of May 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

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.

Amy Pflueger 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 Pflueger 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).

Amy Pflueger (Pflueger) is employed as a correctional officer at the Wisconsin Secure Program Facility (WSPF). On April 28, 2025, Pflueger and officer Paige Schrobilgen observed an inmate standing on a sink, tightening a sweatshirt around his neck like a noose, and saying he was suicidal. One of the officers replied, "Very funny." Pflueger and Schrobilgen did not attempt to stop the behavior, walked away from the cell, and did not report the behavior.

Pflueger argues that she didn't believe that the inmate would act on his suicidal threats and actions. She argues that he made these threats often. She further argues that he couldn't have killed himself with his sweatshirt or hurt himself falling from the sink. However, DOC suicide prevention training clearly states that inmates may engage in self-harm in ways that appear manipulative, and that even with manipulative inmates, employees must respond to the potential risk and act to ensure safety. *See Exhibit R-9*, pg. 21. Pflueger did not do so here.

Pflueger argues that she and Schrobilgen were going to return to the inmate's cell, but that they were assaulted by another inmate while completing rounds. However, Pflueger and Schrobilgen had already violated DOC policy by ignoring the inmate, not remaining cell-front, and failing to report his suicidal threats and behavior.

Pflueger initially argued that correctional sergeant Juan Rodriguez told her and Schrobilgen to disregard the inmate's statements. However, Rodriguez denied making any such statements. Pflueger and Schrobilgen then claimed that correctional sergeant Harlan Greener gave them this instruction. However, Greener testified that he was only told to ignore the inmate when he (the inmate) was in observation status, which the inmate was not that day (an inmate in

observation status has been checked for dangerous items and is being closely monitored). Captains Paul Brown-Lucas and Erica Collins likewise testified that they did not instruct anyone to ignore the inmate and would not do so unless the inmate was placed in observation status.

Pflueger argues that the institutional practice at WSPF was to ignore inmates who were threatening to self-harm. However, employees consistently and credibly testified that supervisors only told employees to ignore inmates who were threatening self-harm if the inmates were in observation status. As mentioned above, these inmates had been checked for dangerous items, were being closely monitored, and would therefore be unable to self-harm despite their threats. All employees stated that the correct procedure when an inmate who is not in observation status makes self-harm or suicidal threats is to stay cell-front and report the threats to a supervisor. Other employees said they heard that other employees were told to ignore inmates who were threatening to self-harm but were unable to provide further details. In conclusion, the evidence does not support Pflueger's argument that WSPF had an institutional practice of ignoring inmates who were threatening to self-harm.

Pflueger argues that she was subject to disparate treatment. An employee who raises a disparate treatment claim has the burden of proving that contention. The Commission has long recognized that disparities in discipline may, under certain circumstances, affirmatively defend against discipline despite the existence of misconduct. Underlying that position is the notion that if an employer treats one employee significantly more harshly than a similarly situated coworker for similar misconduct, inherent unfairness exists. *See Morris v. DOC*, Dec. No. 35682-A (WERC, 7/15). Here, Pflueger claims that two other officers saw the inmate's behavior but failed to report it. However, Warden Paula Stout credibly testified that the inmate was no longer standing on his sink when these officers interacted with him, and that these officers reported the inmate's suicidal statements to their unit sergeant. Pflueger further argues that the four comparables provided show that she was subject to disparate treatment. *See Exhibit A-110*. However, each of these situations involved an employee who, like Pflueger, ignored or failed to properly respond to an inmate self-harming or making suicidal statements, and each resulted in a five-day suspension or termination.

Lastly, Pflueger argues that the investigation was flawed because the body camera footage was cropped to omit Pflueger and Schrobilgen saying that they planned to return to address the inmate's behavior. However, as discussed above, this omission is irrelevant, because they had already failed to follow DOC policy by failing to engage with the inmate, remain cell-front, or report the behavior. Pflueger further argues that the DOC failed to save Schrobilgen's body camera footage, but there is no evidence that this was intentional, or that the footage would have provided any exculpatory information. Lastly, Pflueger argues that the investigator met with management and didn't interview their suggested witnesses. However, the investigator is working on behalf of management and has the prerogative to interview witnesses that management deems relevant.

Pflueger has no previous discipline for the purposes of progressive discipline, and this five-day suspension represents a two-step skip in progressive discipline. However, the skip is justified because of the egregiousness of Pflueger's conduct. Pflueger was grossly negligent when she failed to engage or report an inmate making suicidal statements, and her callous disregard for the inmate's

safety and wellbeing justifies the skip in progressive discipline. Therefore, Pflueger's five-day suspension is affirmed.

Issued at the City of Madison, Wisconsin, this 1st day of May 2026.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Electronically signed by Peter G. Davis

Peter G. Davis, Chairman