

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JORDAN GRAF, Appellant,

vs.

STATE OF WISCONSIN DEPARTMENT OF CORRECTIONS, Respondent.

Case ID: 1.0889

Case Type: PA

DECISION NO. 41482

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Appearances:

Sean Daley, Business Agent, AFSCME Council 32 AFL-CIO, N1463 Second Street Road, Watertown, Wisconsin, appearing on behalf of Jordan Graf.

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 February 20, 2026, Jordan Graf filed an appeal with the Wisconsin Employment Relations Commission asserting that he had been suspended for one-day without just cause by the State of Wisconsin Department of Corrections. The appeal was assigned to Commission Examiner Katherine Scott Lisiecki. On September 16, 2025, pursuant to Wis. Stat. § 227.46(3)(a), Examiner Lisiecki was given final authority to issue the Commission's decision.

In lieu of a hearing, the parties submitted a stipulation of facts on April 7, 2026, and exchanged written briefs on April 21, 2026.

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

**FINDINGS OF FACT**

1. Jordan Graf (Graf) is employed by the State of Wisconsin Department of Corrections (DOC), as a correctional sergeant at the Drug Abuse Correctional Center (DACC). He had permanent status in class when he was suspended.

2. On December 28, 2025, Graf called in sick five minutes before he was scheduled to start his shift. DACC policy requires that employees report unscheduled absences two hours prior to the start of their scheduled shifts.

3. Following an investigation, the DOC issued Graf a written reprimand in lieu of a one-day suspension for failure to promptly notify the proper authority of impending absences or tardiness and failure to comply with written agency policies and 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 had just cause within the meaning of Wis. Stat. § 230.34(1)(a) to suspend Jordan Graf 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 Jordan Graf by the State of Wisconsin Department of Corrections is affirmed.

Issued at Madison, Wisconsin, this 11<sup>th</sup> day of June 2026.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

**Electronically signed by Katherine Scott Lisiecki**

Katherine Scott Lisiecki, Hearing Examiner

**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.

Jordan Graf 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 Graf 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).

Jordan Graf (Graf) is employed by the State of Wisconsin Department of Corrections (DOC), as a correctional sergeant at the Drug Abuse Correctional Center (DACC). On December 28, 2025, Graf was scheduled to begin work at 10 p.m. At approximately 9:55 – 9:57 p.m., Graf contacted the institution and said he could not report to work due to illness. DACC policy 900.10.14 requires employees to report unscheduled absences two hours prior to the start of their scheduled shifts. *See* Exhibit R-2, pg. 30. Graf was aware of this policy and, during the investigation, acknowledged that he called in shortly before he was scheduled to start his shift.

Graf argues that there was not just cause for a one-day suspension because he had no prior discipline in the preceding 24 months. He argues that he should have received a letter of expectation. However, in July 2025, the DOC announced that staff would be issued formal discipline for violating the attendance policy. *See* Exhibit R-3. The Commission has previously held that it is essential that staff follow reporting policies to ensure that correctional institutions are fully staffed and secure. *See Anderson v. DOC*, Dec. No. 41322 (WERC, 02/26).

Graf further argues that he was subject to disparate treatment, because correctional sergeant Valerie Lock called in late on several occasions but was not disciplined. 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). An employee who raises a disparate treatment claim has the burden of proving that contention. Here, Lock called in late on several occasions. *See* Exhibit R-9. However, she was

approved for intermittent FMLA leave for a serious health condition, which made her unable to call in in accordance with standard call-in procedures. *Id.* Although employees utilizing FMLA leave are usually required to comply with existing call-in procedures, the Commission has previously held that a flare-up of an existing medical condition may amount to an “unusual circumstance” that exempts employees from this requirement. *See Mosley v. DHS*, Dec. No. 36130-A (WERC, 6/16). Here, unlike Lock, Graf was not approved for intermittent FMLA leave. Because Graf was not similarly situated to Lock, he was not subject to disparate treatment.

Graf has no previous discipline for the purposes of progressive discipline, and this one-day suspension represents progressive discipline. Graf committed misconduct by failing to promptly notify the proper authority of his impending absence, and the DOC had just cause to issue him a one-day suspension. Therefore, Graf’s one-day suspension is affirmed.

Issued at the City of Madison, Wisconsin, this 11<sup>th</sup> day of June 2026.

#### **WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

**Electronically signed by Katherine Scott Lisiecki**

Katherine Scott Lisiecki, Hearing Examiner