

1. Findings of Fact

1.1 Background Information

The Iowa DOC operates multiple institutions across the state, including Anamosa State Penitentiary (ASP) located in Anamosa, Iowa. ASP is a maximum/medium security institution housing over 900 inmates. Rickels has been employed as a correctional officer at ASP since 2002. His work performance has been satisfactory with no prior discipline. Since September 2007, Rickels regularly worked the first shift, from 5:55 a.m. to 1:55 p.m.

The written reprimand that Rickels appeals was issued for his failure to conduct rounds on January 6, 2020. On that date, Rickels worked a split shift. He worked from 1:55 a.m., part of the third shift, until his regular shift ended at 1:55 p.m., a total of 12 hours. He was assigned to work in Living Unit B (LUB). Rickels is frequently assigned to LUB. He is familiar with the LUB post order which outlines requirements and expectations specific to that living unit. LUB consists of five floors with 10 galleries total. The galleries are separated by a walkway on each of the five floors. LUB houses roughly 315 individuals in either one or two-man cells. Each cell has a barred cell front.

January 6 was the first time Rickels worked on the night shift. The record shows several relevant differences between the day and night shifts. On the day shifts, inmates are out of their cells. The day shift officers are running cell lines, letting inmates in and out of their cells for meals, recreation and assigned jobs. The only time there is no movement in the cell houses on the day shift is during

designated count times. The inmates are in their cells during count. On first shift, Rickels' regular shift, LUB is generally staffed with six officers.

In contrast to the day shift, the inmates are locked in their cells during the night shift. ASP goes down to a skeleton crew of staff members specifically because the inmates are locked in their cells. Two officers are assigned to LUB during the night shift. When one of the officers takes a meal break, the other officer works alone in the living unit.

1.2 Applicable Policy Provisions and Expectations Regarding Rounds

Rickels was disciplined for failing to conduct half-hour rounds for an hour and a half during his shift on January 6, 2020. Rounds are required by federal guidelines under the Prison Rape Elimination Act (PREA), which have been incorporated into DOC policies and procedures. Rounds are critical to the safety and security at the institution as a way to frequently monitor for threats and events such as escape attempts, assaults, and medical or other emergencies. Rounds are a core duty of a correctional officer.

Rickels was disciplined under post order PO-LUB-01, a set of policy requirements and procedures specific to LUB. The specific provision relevant to Rickels' discipline states:

IV. SPECIFIC DUTIES

K. Rounds

Galleries will be walked at a minimum of 30-minute intervals, being watchful for attempted suicides, intoxicants, fires. Round points on the east and west ends of the galleries will be scanned with using a PDA.

The post order requires rounds to be conducted on every shift. The officers receive on the job training on conducting rounds, and are required to review policies in the post orders on a yearly basis. Evidence and testimony establish Rickels knew and understood he was required to conduct rounds every 30 minutes.

When conducting rounds, officers use a personal data assistant (PDA), a small electronic device to scan round points located at the back side of each gallery. The PDAs have been in use at ASP for over four years. The institution maintains a rounds history report. The report contains every PDA scan made during rounds, including the officer conducting the round, date and time of round, and location of scan.

The PDAs may malfunction. The PDAs are battery-operated and may require battery replacement. The PDAs may also have internet connectivity issues when scanning. The officers are directed to notify the shift supervisor of the issue so that it can be resolved. The officers are still required to conduct rounds, but would manually enter completed rounds in a logbook.

Rounds occasionally get missed or delayed for numerous reasons. For example, the assigned officer may be doing a cell or inmate shakedown, serving food, handling a disruptive inmate, assisting another officer, or dealing with medical issues. In these instances, the round may go over 45 minutes. However, it is not common for rounds to not be conducted for over an hour and a half. Each missed or late round is evaluated on a case-by-case basis. The DOC does not discipline an officer if the facts demonstrate some other event or incident caused the round to be missed or late.

The shift supervisors regularly check the PDA rounds history report to ensure rounds are being completed. The PDA report does not contain manual logs, or explanations if rounds were late or missed. As such, when a shift supervisor notices a round was late or missed, the supervisor first speaks to the officer to determine the reason for the missed or late round. If the officer can explain what prevented or delayed him from performing the round, the incident would just be handled verbally by the captain. The captain would remind the officer to try and make the round on time, but the incident would not be subject to further investigation or disciplinary action. On the other hand, if an officer cannot provide a legitimate reason or justifiable cause for missing a round, the institution would investigate further and discipline accordingly.

The LUB post order under which Rickels was disciplined reminds officers that obeying the post order is imperative to maintaining the security and orderly operation of the institution. It further directs that: “Should there be question regarding any part of this document, do not guess what to do, but seek assistance from experienced Correctional Officers or Supervisors.”

1.3 Incident Underlying Discipline

Rickels was disciplined for failing to conduct rounds on January 6, 2020, between the hours of 3:00 a.m. to 4:30 a.m. Rickels and another officer were assigned to LUB. The round history report for January 6 shows the other officer completed rounds shortly before 3 a.m. The officer then took her meal break from 3 a.m. to 4 a.m. Rickels was the only officer in LUB and responsible for conducting rounds during her absence. Upon returning to the cell house, the

officer passed out meals to several inmates that were scheduled for early trips out before returning to the desk where Rickels was seated. The next round was conducted by Rickels and the other LUB officer between about 4:30 a.m. to 4:50 a.m., in conjunction with the 4:30 a.m. required count.

While reviewing the rounds history report on January 6, night shift correctional supervisor Jeremy Kolker noticed the report did not show any rounds being conducted in LUB between 3 a.m. and 4:30 a.m. Kolker called the cell house around 4:55 a.m. and first spoke to the other LUB officer regarding the rounds. The officer informed Kolker she was on break from 3 to 4 a.m. and that Rickels was in the cell house. Rickels was not at the desk when Kolker called, but he called Kolker back around 5:15 a.m. Although Rickels disputes Kolker's assertions regarding their conversation, the record demonstrates that after speaking with Rickels, Kolker emailed ASP security director Chad Kerker around 6:20 a.m. regarding the missed rounds. Kolker explained that he noticed no rounds were conducted in LUB from 3 to 4:30 a.m., that Rickels was in LUB at the time and the other correctional officer was on her break. He further stated:

I called over and spoke to CO Rickels asking why a round was not done at this time and he stated I was in the rotunda at the time. I informed him that [the other officer] was out at that time and he said I was having problems with my PDA and switched batteries and it was still not working.

The rotunda was the breakroom at the time. Kolker did not have access to cell house cameras, and requested that Kerker have someone review camera footage to determine if rounds were conducted between 3 to 4:30 a.m.

Kolker also wrote an incident report (IR) the following day, January 7, regarding the incident and conversation with Rickels. Kolker described Rickels' response when asked why he did not conduct rounds between 3 to 4:30 a.m. as follows:

CO Rickels then stated to me that he was out on break then, I informed him that he was not out on break at that time that [the other officer] was. At this time there was a silence and he then stated oh yeah I did them, it's because I was having problems with my PDA at this time I switched batteries and it still didn't work. I CS Kolker informed CO Rickels that if he did his rounds he needs to put this in the unit log that he conducted a none PDA round. CO Rickels stated ok.

Kolker testified he wrote the IR to document the information because he did not think Rickels was being truthful with him during their conversation. ASP determined to further investigate the incident because of the varying explanations Rickels provided as reported by Kolker.

1.4 Investigation

ASP security director Kerker and first shift supervisor Josh Baal conducted the investigation. Kerker reviewed camera footage as part of the investigation. The footage showed that between 3 a.m. and 4:30 a.m., Rickels was at the LUB desk the entire time except for leaving the desk once or twice to use the bathroom that is located about three feet behind the desk. As part of the investigation, Kerker confirmed with ASP's internet technology that no computer issues with the PDAs were reported on January 6.

Baal conducted Rickels' investigatory interview because Rickels is an officer on his shift. Rickels was interviewed on January 15. Rickels stated January 6 was

his first time working on third shift. He did not realize that only one officer is in the cell house from 2 to 4 a.m. because the day shift has at least three officers in the cell house. Rickels explained that first shift officers are trained not to leave the desk unattended. Rickels assumed at least two officers needed to be in the cell house to conduct rounds so that one can remain at the desk. He further explained he did not want to go upstairs into the galleries for safety reasons because he was alone in the cell house. Rickels stated he was not sure what to do, and he decided to wait until the other LUB officer returned from break to ask her. When she returned, the officer informed Rickels that rounds have to be conducted. When asked during the interview whether he thought about calling the security office for direction, Rickels stated that he did not, "I probably should have. I didn't think about it." Rickels did not call the shift supervisor to inform him about the missed rounds.

Rickels acknowledged having a conversation with Kolker regarding rounds. Rickels asserted he told Kolker during that conversation about his day shift mentality of not leaving the desk unattended and not wanting to go upstairs while alone in the cell house for safety issues. He decided to wait until the other CO got back to play it safe. Rickels claims this is what he told Kolker when asked why he did not do rounds from 3 to 4 a.m. Rickels claims he never told Kolker the PDA batteries were dead as a reason for not conducting rounds. Instead, Rickels claims he told Kolker that he was having connectivity issues with the rounds he had just completed around 5 a.m., right before talking to Kolker. He informed Kolker the PDA stopped working when he was on the 9/10 gallery and that those rounds may not show up on the rounds history report, but that he did complete them.

Third shift captain Kolker was interviewed on January 16 as part of the investigation. Kolker confirmed the information he had written in the email and IR. Kolker denied that Rickels said anything to him about his day shift mentality of not leaving the desk unmanned, or that he wanted to wait for the other LUB officer to return from break to ask whether he should do rounds while alone in the cell house. Kolker testified that he could hear Rickels clearly during their phone call. Kolker further confirmed he was not confused about the rounds Rickels was referencing when talking about the PDA batteries because they were only discussing the 3 to 4 a.m. rounds.

1.5 Discipline Decision

Upon completion of the investigation, Kerker presented the findings to ASP's executive team that includes the warden and deputy warden. The group considered the applicable policy and work rules, Rickels' length of employment, lack of prior discipline, and other similar instances of rounds policy violations. Ultimately, the executive team determined discipline was warranted. The executive team found it was inadequate to just verbally address the issue with Rickels because he blatantly chose not to conduct rounds. He was not in any way prevented from conducting rounds because he was dealing with another situation at the institution.

Although Kolker reported that Rickels changed his explanation several times, ultimately, the dispute between Kolker and Rickels regarding what Rickels said came down to the supervisor's word against Rickels' denial. Therefore, ASP determined it did not have sufficient proof to discipline Rickels for dishonesty.

Instead, the discipline was only based on Rickels' failure to conduct rounds, which was confirmed by documentation and Rickels' own admission.

The DOC maintains that Rickels' explanations and purported confusion regarding protocol are not acceptable reasons for missing rounds. Rickels knew that rounds had to be conducted every 30 minutes. The first and third shift supervisors and the security director testified that Rickels, as an officer with 20 years in corrections, should have known better than to blatantly ignore his duty to conduct rounds because he was unsure whether he could leave the desk unattended or whether it was safe for him to walk the galleries while alone in the cell house. Rickels never contacted the shift supervisor or another third shift officer to seek clarification. It is common practice and a policy requirement for officers to contact a supervisor or another experienced officer when they have questions. For those reasons, the executive team determined discipline was warranted because he violated the rounds requirements without a legitimate reason.

The DOC considered other similar instances when determining the appropriate level of discipline. One instance considered involved an officer who was not doing quality rounds. The officer was seen on cameras walking the galleries, but he merely walked to the round points to scan and went right back to the desk. That officer received a one-day suspension because he did this over four days. Another instance considered was an officer who failed to perform quality rounds and count. An inmate had committed suicide, and his body was not discovered until hours later when first shift came in. The officer received a

five-day suspension and final warning because the situation involved the death of an individual.

In Rickels' situation, the executive team determined a written reprimand, the lowest level of discipline, was appropriate considering it was his first policy violation for missing rounds and it was not a repetitive incident. After approval from DOC's central office, ASP issued Rickels the notice of discipline on January 27, 2020. The written notice indicated Rickels violated PO-LUB-01(ASP), section K (Rounds), previously outlined above. The letter erroneously stated the incident occurred on January 3, 2020. This was a clerical error, and the letter should have referenced the January 6 date. Rickels did not work on January 3. He was never questioned about January 3 during the investigation. Rickels acknowledges that he understood the investigation and subsequent discipline was issued for not conducting rounds on January 6, 2020.

1.6 Rickels' Appeal

Rickels appealed the written reprimand claiming the discipline is not supported by just cause. On appeal, Rickels continues to assert that he did not conduct rounds on January 6 because he was trained on first shift not to leave the desk unattended and that he believed it was unsafe to conduct rounds while alone in the cell house.

Rickels further claims on appeal that conducting rounds while alone would have required him to walk the galleries while carrying keys to the LUB cell house. The LUB cell house is secured by two sets of grill doors. The LUB post orders dictate that the key to the inside grill doors are to be with the desk officer. On his

regular day shift, Rickels claims the desk officer is trained not to leave the desk because he is in possession of the keys. While this was never explicitly provided as an explanation during the investigation, Rickels contends the investigators should have realized it was part of his concern when he talked about his concern of leaving the desk unattended. He claims conducting the rounds while carrying the keys would also be a violation of the LUB post order.

Rickels contends he was not required to seek clarification regarding rounds because he is an experienced officer in corrections. He used his own experience and best judgment to conclude it was unsafe to conduct rounds while alone in the cell house and the desk unmanned. He further added that supervisors do not want officers calling them every five minutes with questions. The officers are paid to make choices and he did not think it was necessary to call someone with less experience than himself to ask about the issue.

Rickels claims the third shift supervisor targeted him to investigate and discipline. He did not identify any grudges, disagreements, or interactions with the supervisor that may cause Kolker to improperly target Rickels for discipline. Kolker and Rickels had never worked together and Rickels testified he did not recall if he had ever spoken to Kolker prior to January 6. Evidence in record shows Kolker was not involved in the investigation or subsequent discipline decision.

Rickels similarly claims that other officers miss rounds without getting disciplined. They are just subject to a verbal discussion with the shift captain. Rickels testified he had never been talked to about missing rounds himself, but knows this is a practice from other officers. Rickels did not provide evidence or

testimony from other officers, or otherwise establish why the officers missed rounds but were not subject to discipline. Rickels also highlights the rounds history reports as evidence that some rounds show as being more than an hour late without discipline. Other than the report, Rickels did not provide any evidence to show the rounds on the PDA rounds history report were not manually conducted, or the explanations the officers provided for late or missed rounds.

The DOC disputes Rickels' claim that he had to stay at the desk because he had keys to the LUB. The inmates are locked in their cells and the officer can conduct the rounds even if in possession of the key. As with prior explanations provided by Rickels, the DOC maintains that Rickels had an obligation to contact his supervisor or another experienced officer to get clarification on proper procedure if he was unsure how to handle his required duties on third shift.

2. Issue Presented and Summary of Arguments

The issue in this case is whether Rickels established that the DOC failed to substantially comply with DAS rule 11—60.2. This rule requires disciplinary actions to be supported by just cause. The specific aspects of just cause in contention are whether Rickels had notice of the rounds policy and expectations, whether the DOC conducted a fair and sufficient investigation, whether Rickels was treated the same as other similarly situated employees, and whether the imposed penalty is appropriate for the established violation.

Rickels argues he did not have notice of his requirements on third shift when left alone in the cell house. He only had his first shift training to rely upon, which informed him to remain at the desk and wait for the other officer to return

for safety reasons before conducting rounds. He further argues the DOC failed to sufficiently and fairly investigate whether he was subject to disparate treatment, specifically targeted by the third shift supervisor, and treated differently than other officers who miss rounds but are never formally disciplined. Finally, he contends the matter should have been concluded with a verbal reprimand by the shift captain because that is in line with how other officers are dealt with when they miss rounds.

The DOC maintains that just cause supports the issuance of a written reprimand. A policy violation was established and Rickels could not provide a legitimate reason for purposefully neglecting a core duty of his job for an hour and a half. The DOC disciplines officers for not following the rounds policy as established by the prior examples provided. In Rickels' case, his first and only violation of the round policy justified issuing the lowest level of discipline, a written reprimand.

3. Conclusion of Law and Analysis

Rickels filed the instant grievance appeal pursuant to Iowa Code section 8A.415(1), which states:

8A.415 Grievance and discipline resolution procedures.

1. Grievances.

a. An employee . . . who has exhausted the available agency steps in the uniform grievance procedure provided for in the department rules may, within seven calendar days following the date a decision was received or should have been received at the second step of the grievance procedure, file the grievance at the third step with the director [of the Department of Administrative Services]. The director shall respond within thirty calendar days following receipt of the third step grievance.

b. If not satisfied, the employee may, within thirty calendar days following the director’s response, file an appeal with the public employment relations board. The hearing shall be conducted in accordance with the rules of the public employment relations board and the Iowa administrative procedure Act, chapter 17A. Decisions rendered shall be based upon a standard of substantial compliance with this subchapter and the rules of the department. . . .

Particularly significant in the excerpted language is that PERB’s decision in a subsection 8A.415(1) grievance appeal “shall be based upon a standard of substantial compliance with [Iowa Code chapter 8A, subchapter IV] and the rules of the department [of Administrative Services].” The burden is on the appealing employee to establish the State failed to substantially comply with the cited statute or rule. *Studer and State of Iowa (Dep’t of Human Servs.)*, 98-MA-12 at 9. Accordingly, to prevail in this appeal, Rickels must establish the DOC failed to substantially comply with DAS rule 11—60.2 which requires the State to have just cause to support the issuance of discipline, including written reprimands.

In the absence of a definition of “just cause,” PERB has long considered the totality of the circumstances and rejected a mechanical, inflexible application of fixed elements in its determination of whether just cause exists. *Stein and State of Iowa (Iowa Workforce Dev.)*, 2020 PERB 102304 at 15. In analyzing the totality of circumstances, the Board has instructed that the following factors may be relevant to a just cause determination:

While there is no fixed test to be applied, examples of some of the types of factors which may be relevant to a just cause determination, depending on the circumstances, include, but are not limited to: whether the employee has been given forewarning or has knowledge of the employer’s rules and expected conduct; whether a sufficient and fair investigation was conducted by the employer; whether reasons for the discipline were adequately communicated to the

employee; whether sufficient evidence or proof of the employee's guilt of the offense is established; whether progressive discipline was followed, or not applicable under the circumstances; whether the punishment imposed is proportionate to the offense; whether the employee's employment record, including years of service, performance, and disciplinary record, have been given due consideration; and whether there are other mitigating circumstances which would justify a lesser penalty.

Id. PERB also considers how other similarly situated employees have been treated.

E.g. Kuhn and State of Iowa (Comm'n of Veterans Affairs), 04-MA-04 at 42.

The presence or absence of just cause rests on the reasons and policy violations cited in the disciplinary letter provided to the employee. *Eaves and State of Iowa (Dep't of Corr.), 03-MA-04 at 14; Gleiser and State of Iowa (Dep't of Transp.), 09-MA-01 at 17-18, 21.* Rickels' written reprimand indicates he was disciplined for failing to conduct rounds in violation of the LUB post order.

3.1. Notice of Applicable Policy and Expectations

The record establishes Rickels had adequate notice regarding the policy expectations on rounds. Rickels acknowledges he knew that 30-minute rounds were a required part of his job as a correctional officer, including on third shift. Nonetheless, Rickels claims that nobody specifically told him on January 6, his first time working on third shift, that he had to conduct rounds even if he was the only officer in the cell house and even if it required him to leave the security desk unattended. Under this record, Rickels has not established the DOC failed to provide adequate notice regarding policy requirements and expectations.

First, the LUB post order under which Rickels was disciplined directs that rounds are required on all shifts. It lists no written exceptions to missing rounds. As such, the written policy provided notice that rounds were required.

Next, although rounds are required without exception by written policy, the DOC acknowledges that in reality not all missed or late rounds result in discipline. Each incident is individually addressed to determine if the officer can provide a legitimate explanation for the policy deviation. All examples of missed rounds that did not result in discipline provided during testimony involve the officer being unable to perform rounds because he was dealing with another issue, *e.g.* disruptive inmates, cell shakedowns, or assisting another officer. Rickels' own testimony confirmed these reasons for missing rounds. As such, based on his own experience in corrections, Rickels knew that rounds were to be completed unless another incident or event prevented it. He has not shown that any such event took place on January 6.

Finally, the LUB post order specifically directs that officers should seek guidance from a supervisor or experienced officer in the event they are unsure about job expectations. Rickels did not seek guidance. He instead argues that as an experienced correctional officer, it was sufficient to use his own experience to determine what to do. I disagree. Conducting rounds is a core duty of a correctional officer. If Rickels thought being alone in the cell house, or any other reason he provided, excused his duty to conduct rounds, he had the obligation to seek guidance as this was the first time he encountered such a situation. The post order provided him with notice as to what he should do in the event of a policy question,

and that was to contact a supervisor or an experienced correctional officer. In this case, it would have been an officer with experience on third shift.

Under this record, Rickels has not shown that he did not receive adequate notice regarding the requirements and expectations on conducting rounds.

3.2 Sufficiency and Fairness of Investigation

The record demonstrates the DOC conducted a fair and sufficient investigation into Rickels' policy violation. Rickels acknowledges the investigation obtained sufficient proof that he did not conduct rounds on January 6. He acknowledged not conducting rounds during the investigation. However, Rickels contends the investigation was unfair and insufficient for failing to investigate and consider the third shift captain's motive for singling Rickels out and disregarding Rickels' explanations for missing his rounds.

Rickels' claim that he was targeted by the third shift captain is entirely unsupported by the record. Rickels and the third shift supervisor have no prior history or negative interactions. This was the first time they worked together. Rickels could not provide any reason why Kolker might specifically target him for discipline. Furthermore, Kolker found the missed rounds as a result of doing routine checks of the rounds history report that all shift supervisors conduct. Thus, the manner in which the violation was discovered does not in any way suggest Kolker was specifically targeting Rickels for discipline. Rickels has not demonstrated the investigators would have any reason to suspect Kolker was improperly singling Rickels out to investigate, and thus did not have any obligation to investigate the matter further.

Rickels' related claim that the DOC failed to sufficiently investigate his explanations is similarly unsupported by the record. Evidence and testimony received demonstrates the DOC considered the explanations Rickels provided for not conducting rounds, *i.e.* his day shift mentality of not leaving the desk unattended and safety concerns with conducting rounds while alone in the cell house. The DOC ultimately concluded Rickels should have known that he can leave the desk unattended given that inmates are locked in their cells. First shift desk officers leave the desk unattended during day counts when inmates are also locked in their cells. The DOC further determined that if Rickels did not know the proper protocol on third shift, the post order required him to seek guidance instead of willfully neglecting his known duty to conduct rounds for an hour and a half. While Rickels does not agree with the DOC's dismissal of his explanations, the record demonstrates the explanations obtained during the investigation were considered prior to the imposition of discipline.

3.3 Equal Treatment

The record demonstrates Rickels' discipline is in line with how other similarly situated employees have been treated. The DOC presented prior instances of officers disciplined for violating the rounds policy. Both prior instances presented involved enhanced discipline because of the length of the violation and the severe consequences of the violation. The comparable incidents DOC presented show that officers are disciplined for violating the rounds policy.

Rickels' contention regarding disparate treatment is based on his claim that missed or late rounds are generally handled verbally by the shift captain without

formal discipline. Rickels testified he is aware of this practice from other officers who have been verbally talked to by captains. He did not offer testimony or evidence from any other officer to support his claim of disparate treatment. However, even assuming other officers have acknowledged missing rounds without discipline, the critical inquiry is why those rounds were missed. As the DOC acknowledges, officers may be late or miss rounds because of other reasons such as dealing with disruptive inmates, assisting another officer, or doing shakedowns. The commonality between these explanations is that the officer was otherwise prevented from fulfilling the rounds duty because of a more urgent task. In contrast to these other situations, Rickels could not establish he was in any way prevented from conducting rounds. Instead, the evidence shows Rickels was seated at the LUB desk not occupied with any other task.

Rickels also highlights the PDA rounds history report as evidence of disparate treatment. He argues the report shows instances of late rounds that go over an hour without any of those situations resulting in discipline. This argument is unpersuasive for the same reason as discussed above. The rounds history report does not show if a round was manually logged or an explanation as to why a round was late or missed. The explanation determines whether the incident will result in further investigation or discipline. As such, the rounds history report is insufficient to establish disparate treatment.

Under the record presented, Rickels has not shown the State treated him disparately from other similarly situated employees who violated the rounds policy without a justifiable reason.

3.4 Appropriate Penalty

Rickels has failed to establish the written reprimand was not supported by just cause. Rickels maintains the incident should have been handled verbally without formal discipline. This argument is unpersuasive. For the reasons previously discussed, Rickels had notice of the expectations, Rickels could not provide a legitimate explanation for willfully neglecting a known security requirement for over an hour, and the record demonstrates the DOC disciplines employees for failing to conduct rounds without a legitimate reason. As such, Rickels has failed to show the State's disciplinary action was unwarranted.

The DOC utilized progressive discipline and determined the lowest level of discipline was the appropriate penalty. The purpose of progressive discipline is to correct the unacceptable behavior of an employee and to convey the seriousness of the behavior while affording the employee an opportunity to improve. *Phillips and State of Iowa (Dep't of Human Servs.)*, 12-MA-05 at App. 16 (internal citations omitted). This was Rickels' first violation of the rounds policy and it was a one-time violation. The DOC concluded a written reprimand, the lowest level of discipline, would convey the seriousness of the unacceptable behavior while allowing the employee an opportunity to correct his behavior. Rickels has failed to demonstrate the State's imposition of a written reprimand was not supported by just cause.

3.5 Conclusion

Under the record presented, and following consideration of the parties' arguments, Rickels has failed to demonstrate the DOC lacked just cause to issue

him a written reprimand for failing to conduct rounds on January 6, 2020. As such, Rickels has failed to demonstrate the State did not substantially comply with DAS rule 11—60.2.

Consequently, I propose the following:

ORDER

The state employee grievance appeal filed by Shannon Rickels is hereby DISMISSED.

The cost of reporting and of the agency-requested transcript in the amount of \$654.95 are assessed against Appellant Shannon Rickels pursuant to Iowa Code subsection 20.6(6) and PERB rule 621—11.9. A bill of costs will be issued to the Appellant in accordance with PERB subrule 621—11.9(3).

This proposed decision and order will become PERB’s final agency action on the merits of Rickels’ appeal pursuant to PERB rule 621—11.7 unless, within 20 days of the date below, a party files a petition for review with the Public Employment Relations Board or the Board determines to review the proposed decision on its own motion.

DATED at Des Moines, Iowa this 19th day of May, 2022.

/s/ Jasmina Sarajlija
Administrative Law Judge

Electronically filed.
Parties served via eFlex.