

# Washington State Executive Ethics Board



**Annual Report for Fiscal Year 2006**  
(July 1, 2005 – June 30, 2006)

December, 2006

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## MISSION STATEMENT

The Executive Ethics Board raises awareness and communication on the Ethics in Public Service Act and ensures compliance with the law.

## LEADERSHIP

The Executive Ethics Board is comprised of five members, all appointed by the Governor. The members play a crucial role in the policy setting and enforcement of the Ethics Act.

**Trish Akana** was appointed by Governor Locke in November 2003 to fill the classified state employee position. Ms. Akana is employed by the Department of Ecology. She served for 2 years on the North Thurston School District Special Education Advisory Council. Ms. Akana serves on the Board of Directors for the Dispute Resolution Center of Thurston County where she has volunteered as a family mediator for more than 5 years. She also volunteers as a workplace mediator with the Interagency Mediation Program. Her term expires on September 30, 2007

**Judy Golberg** was appointed to the EEB by Governor Locke in 2004 at the recommendation of State Auditor Brian Sonntag for a term that ends on September 30, 2009. Ms. Golberg was a member of the Richland School Board between 1983-1992. She is a member of the League of Women Voters and served as State President from 2003-2005. Ms. Golberg has been employed in the health care field since 1989.

**Neil Gorrell** was appointed to the Executive Ethics Board in November, 2005. Mr. Gorrell is a loyal University of Arizona Wildcat undergraduate, earning degrees in Political Science and Philosophy. He received his J.D. from the University of Washington School of Law in 1996. After serving as a law clerk for Judge Elaine Houghton in Division II of the Court of Appeals, he joined the Office of the Attorney General where he focused on civil and regulatory litigation. Mr. Gorrell worked in several divisions of that office, including Labor & Industries, General Legal, Government Compliance & Enforcement, and Torts. Mr. Gorrell was appointed as an Administrative Law Judge in February of 2004. He currently hears cases for a variety of state agencies and local governments. In his spare time, Mr. Gorrell has taught courses in civil litigation and administrative law in the paralegal program at the South Puget Sound Community College.

**Marilee Scarbrough** sits in the exempt state employee position as a staff person with the Washington State School Directors Association. Ms. Scarbrough was the attorney for TeamChild and worked as legal counsel for the Washington State House of Representatives. Her experience also includes working as staff attorney with the Pierce County Department of Assigned Counsel as well as serving as Judge Pro Tem for Tacoma Municipal Court. Appointed by Governor Locke in 2001, Ms. Scarbrough's term expires in September, 2005.

**Evelyn Yenson** was recommended by then Attorney General Christine Gregoire and was appointed by Governor Locke in 2004. Ms. Yenson was the Washington State Lottery Director from 1987-1997 and Director of the Department of Licensing from 1997-1999. She has worked in the private sector for the past seven years. Her term expires on September 30, 2008.

**Paul Zellinsky** was appointed by Governor Locke in 2002 to serve until September 30, 2006. Mr. Zellinsky has served on the Kitsap Planning Commission, the Bremerton Council of the Navy League, the Bremerton and Silverdale Chambers of Commerce and the Sheltered Workshop for the Handicapped. He was an auto dealer and spent 11 years in the waste management business. Mr. Zellinsky served in the Legislature from 1983 – 1999.

**Executive Director Susan Harris** was appointed to her position by Attorney General Rob McKenna in February, 2005. She began state service in 1975 with the then Department of Motor Vehicles. In 1977, she transferred to the Public Disclosure Commission, spending the next 28 years with that agency, the last five years as Assistant Director. During that time, Susan focused her energies on investigations and policy issues.

## GENERAL INFORMATION

Biennial Budget: \$941,259

### Board Members:

Marilee Scarbrough (4/1/01 – 9/30/05)  
Paul Zellinsky (6/1/02 – 9/30-06)  
Trish Akana (11/1/03 – 9/30/07)  
Evelyn Yenson (4/1/04 – 9/30/08)  
Judy Golberg (1/1/05 – 9/30/09)  
Neil Gorrell (11/1/05 – 9/30/10)

### Staff:

Susan Harris, Executive Director  
Ruthann Bryant, Administrative Officer  
Sue Jones, Investigator  
Nancy Lewin Investigator  
(Vacant---.5 FTE) Office Assistant

### Legal Counsel:

Nancy Krier, Senior Assistant Attorney General, Counsel to the  
Board  
Michael Tribble, Assistant Attorney General, Counsel to Staff  
and Chief Prosecutor

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## BACKGROUND

The Executive Ethics Board (EEB) is an independent group made up of five individuals who are appointed by the Governor. The Office of the Attorney General provides staff for the Board. Board members as well as staff are dedicated to improving the public's confidence in state government by ensuring that state officers and employees conduct themselves with the highest ethical and moral standards and they conduct the state's business in a manner that advances the public's interest.

The Board's strategic plan continues to emphasize three areas in which resources are to be devoted:

- **Raise ethical awareness and communication,**
- **Fulfill legislatively-mandated responsibilities, and**
- **Improve internal processes to bring about greater efficiencies and effectiveness.**

The Board Members believe that publicizing their actions, conducting training, developing educational materials, and issuing advisory opinions or non-binding staff opinions are ways to accomplish these goals.

The Board Members take their role seriously, and hold themselves to the highest values in an attempt to be role models. They have set their standards to be respectful, trustworthy, fair, competent, possessing integrity, and finally, stewards of the Ethics in Public Service Act. These values are essential in order to assure the public that any action taken by the Board was done in a fair and unbiased manner, and the action was conducted in a manner that advanced the public's interest.

The Board typically meets the second Friday of each month, with the exception of August and December when no meetings are held.

### **Raise Ethical Awareness and Communication**

#### ***Training/Advice***

During this period, the EEB partnered with the Department of Personnel (DOP) to provide ethics training to state employees in a classroom setting. In addition, several agencies contracted with DOP to bring ethics training to their work place. Thirty five sessions were held during this time period and were well attended by over 430 state employees. This project is on-going.

Having DOP provide ethics training to most state employees freed up staff time to concentrate its efforts on training agency management teams. During FY 2006, EEB staff conducted 24 agency management training sessions with over 1,900 managers in attendance.

Staff has developed brochures to answer questions about such things as gifts and post-state employment, and to provide information about the Board and its processes.

**Ethics Advisors Group**

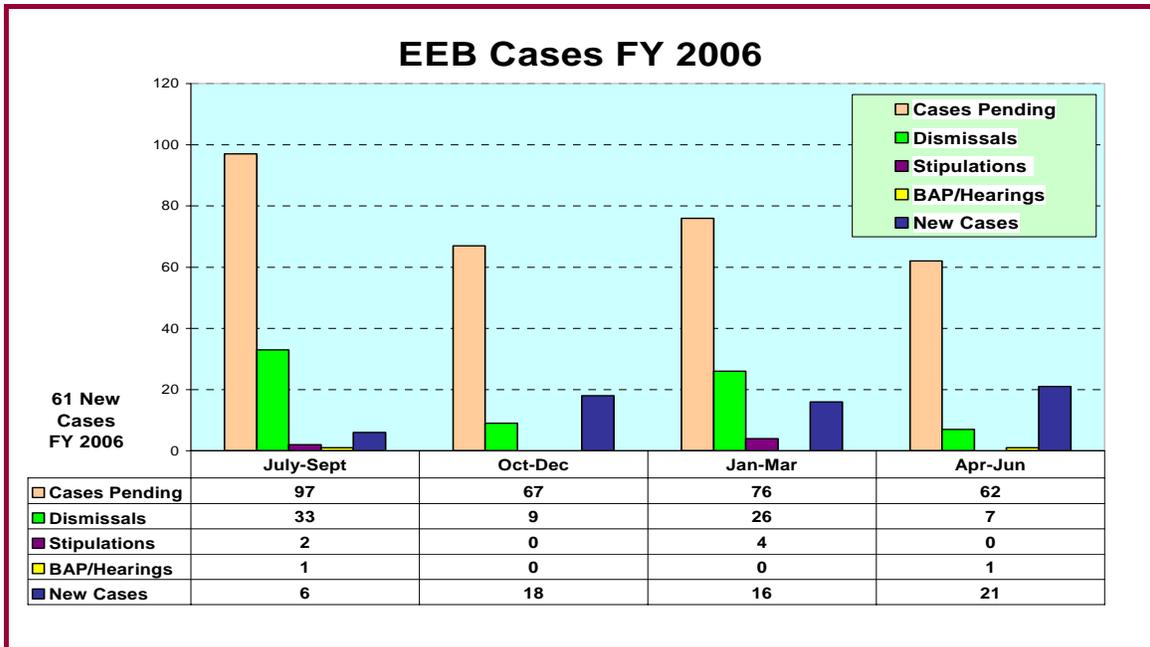
Staff members continued meeting with ethics advisors from different agencies, typically in the week following the Board meeting. The Board actions during the past meeting are typically discussed. These ethics advisors meetings also give the advisors a chance to seek input from others on issues that arise within their own agencies.

**Fulfill Legislatively Mandated Responsibilities**

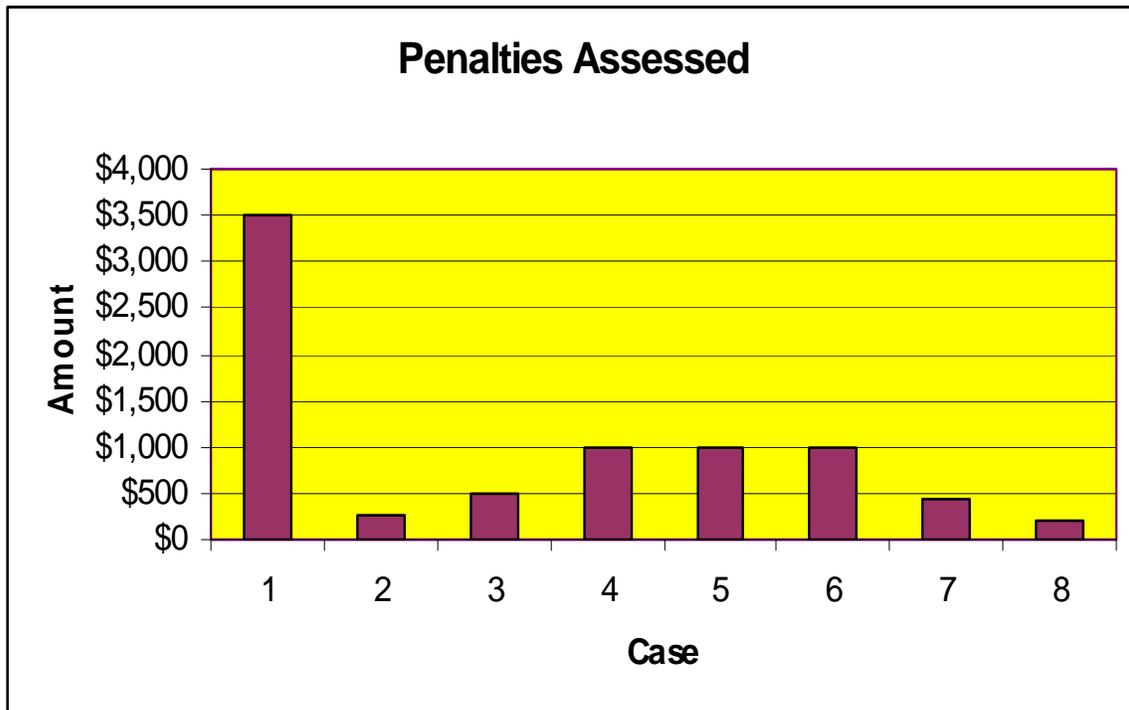
**Enforcement Activities**

During this time period, 61 new complaints were filed with the Board. Starting with a case load of 97 at the start of July, 2005, we ended with a case load of 75. That means that, during FY 2006, action was taken on 83 cases:

Dismissals: 75 cases  
 Stipulations: 6 cases  
 Hearings: 2 cases



The use of public resources for personal gain continues to be the area in which most complaints are filed, and the basis of the violations found against all eight respondents. The penalties for such violations ranged between \$200 and \$3,500, depending on the egregiousness of the violation and aggravating or mitigating circumstances.



### ***Advisory Opinions***

The Board offered opinions on several issues.

**1. Use of state resources for education and training.** An agency may authorize the use of an agency's computer and/or access to the Internet for training or education that is related to official duties, including career and educational development identified and approved by the agency, pursuant to RCW 41.06.410, and is documented by the agency as such. This training or education may be done on state time as approved by the agency, while other use of computers and/or access to the Internet for personal training or educational purposes is limited to an agency's de minimis use policy. Tuition-reimbursement training or education in itself does not authorize other than de minimis use where it is not related to official job duties.

**2. Personal use of state owned cell phones.** A state employee may use a state owned cell phone for personal reasons under limited circumstances--if the use of a state-owned cell phone does not cost the state or the cost is so small as to be insignificant or negligible, and the use

is infrequent and short in duration. State-owned cell phones may never be used for private business enterprise or political purposes.

3. **Motel travel rewards.** Motel travel rewards can be treated the same as frequent flyer miles, meaning the employee may keep the reward and use them for personal travel.

4. **Personal use of state owned software.** The Board agreed that when an employee loads state owned software on his or her home computer, and the software is required for the employee to telecommute or otherwise work at home, the employee may use the software for personal reasons, so long as the de minimis standard is applied.

5. **Amending Advisory Opinion 01-02.** The Board amended this opinion to narrow the definition of “member.” The Board concluded that just being a card carrying member of an organization does not necessarily create a conflict of interest for an employee. The employee must play a significant role in the organization and participate in transactions involving the state.

6. **Use of state resources to plug in electric vehicles.** The Board concluded that the Ethics in Public Service Act would not be violated if an employee were to use state resources to plug in a personal vehicle used to commute to and from work, so long as the employing agency included and approved such usage in its policy consistent with RCW 43.01.230 and the purposes of RCW 70.94.521.

### ***Legislation/Rule Making***

During the 2006 Legislative Session, several bills impacting the EEB were introduced.

- SHB 2898 Distributing Communications---This legislation, which passed, allows for employee organizations and charitable organizations to use state resources to distribute communications to state employees.
- SHB 2419 Lieutenant Governors---In 2006, the Lt. Governor hosted the National Lt. Governor’s Association meeting. The meeting was originally scheduled to be held in New Orleans, but because of Hurricane Katrina, a new location was sought. The Lt. Governor’s office sought legislation that would allow him or his staff to solicit for this event. This bill passed, noting that the solicitation for the 2006 conference was part of the Lt. Governor’s official duty.

While the Board did not engage in actual rule making during FY 2006, staff is constantly reviewing rules and advisory opinions for possible amendments and to insure consistency with the Administrative Procedures Act.

***Other***

Staff reviewed and approved over 50 contracts from state employees seeking to contract with other state agencies.

The Board also reviewed and approved 19 agency policies.

Staff responded to over 175 emails, and answered hundreds of phone calls with questions from state employees on ethics issues. Staff continues to encourage employees to contact them with questions BEFORE the action has taken place.

**Improve Internal Processes to Bring About Greater Efficiencies and Effectiveness**

The Board Members, as well as staff, are always searching for ways to conduct business more efficiently and effectively.

At times, a Board Member may not be able to travel to Olympia for a Board Meeting. They do, however, try to participate by telephone whenever possible.

The Board Members feel it is important to conduct meetings in person. They also are aware of limited resources and aim to be responsible stewards of public funds. So, if it appears that a meeting may last less than two hours, the Board may choose to conduct the meeting by telephone.

**Relationship Between the Office of the Attorney General and the Executive Ethics Board**

