

# Washington State **Executive Ethics Board**



**Annual Report for 2010**  
(January 1, 2010 – December 31, 2010)

December, 2010

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## MISSION STATEMENT

To promote integrity, confidence and public trust in state government through education, interpretation and enforcement of the Ethics in Public Service Act.

## 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.

**Chair Linnaea Jablonski** was appointed by Governor Gregoire in September 2007 to fill the classified state employee position. Ms. Jablonski has worked for the Office of the Secretary of State since February 2006. Ms. Jablonski received her bachelor's degree from The Evergreen State College in 2002 and is now pursuing a Master's degree in Mediation and Conflict Resolution.

**Vice Chair Mike Connelly** retired as the City Attorney for the City of Spokane Valley and is now a partner in a private Spokane law firm. He is also an adjunct professor at Gonzaga University School of Law and previously served as an adjunct professor at Eastern Washington University. Prior to working for the City of Spokane Valley, he was the City Attorney for the City of Spokane for five years. Mike was appointed as a member of the Washington State Executive Ethics Board in March of 2008. He also was a member of the Public Disclosure Commission from July 2001 to July 2006 and was its Chairman from July 2002 to July 2003. Before becoming an attorney, Mike was a Jr. High School Teacher at St. Aloysius. He has lived in the Spokane area his entire life and he and his wife Sue have five children.

**Neil Gorrell** was appointed to the Executive Ethics Board in November, 2005. Neil 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. Neil worked in several divisions of that office, including Labor & Industries, General Legal, Government Compliance & Enforcement, and Torts. Neil was appointed as an Administrative Law Judge in February, 2004. In that capacity he decided cases for a variety of state agencies and local governments. Neil moved to the Employment Security Department in May of 2007, where he currently serves as Deputy Director of the Unemployment Insurance program. In his spare time, Neil has taught courses in civil litigation and administrative law in the paralegal program at the South Puget Sound Community College. He also dotes excessively on his wife and four children.

**Martin Biegelman** was nominated by Attorney General Rob McKenna and appointed by Governor Christine Gregoire in November 2008 for a term that expires September 30, 2013. Mr. Biegelman is Director of Financial Integrity at Microsoft Corporation where he leads a global fraud detection, investigation, and prevention program. He is a former federal law enforcement professional having served as a United States Postal Inspector in a variety of investigative and management assignments. He is both a Certified Fraud Examiner and a Certified Compliance and Ethics Professional and the author of books on fraud prevention, compliance and ethics, and identity theft.

**Matthew Williams III** was nominated by State Auditor Brian Sonntag and appointed by Governor Christine Gregoire in November 2009 for a term that extends through September 2014. Mr. Williams is a retired Lieutenant Colonel in the United States Army and a combat veteran of the Vietnam and Panama Conflicts. Additionally, he was a tenured member of the U.S. Army Special Forces (**Green Berets**), Senior Intelligence Officer for the 1<sup>st</sup> Special Operations Command (Abn), and the United States Head of Delegation for NATO Intelligence issues. He is a former high school Civics teacher, and is currently a Military Transitions Assistance Program Facilitator for the U.S. Department of Labor. Mr. Williams graduated from North Carolina Agricultural and Technical State University with a B.S. in Business Administration and also received Professional Teaching Certification from Saint Martin's University.

**Executive Director Melanie de Leon** was appointed to her position by Attorney General Rob McKenna in January 2008. Melanie graduated from the University of Puget Sound with degree in Business Administration. She spent the next 13 years as an Air Force officer. She completed a Master of Arts in Public Administration while in the Air Force. Upon leaving active duty, Melanie became a Quality Manager for a local software manufacturing company and worked her way up to run the manufacturing facility. During this time, Melanie completed her law degree at Seattle University School of Law. She started working for the Attorney General's Office in 2001, prosecuting cases for the Office of the Insurance Commissioner, and then litigated juvenile dependencies and parental terminations. After a brief time as a criminal prosecutor, Melanie became a staff attorney for the Department of Health, working with the Medical and Chiropractic Commissions.

## GENERAL INFORMATION

Biennial Budget: \$941,259

### Board Members:

Neil Gorrell (11/1/05 – 9/30/10)  
Linnaea Jablonski (09/01/07-09/30/12)  
Michael Connelly (3/31/08 – 09/30/11)  
Martin Biegelman (11/11/08-9/30/13)  
Matthew Williams III (11/7/09-9/30/14)

### Staff:

Melanie de Leon, Executive Director  
Ruthann Bryant, Administrative Officer  
Sue Jones, Investigator

### Legal Counsel:

Mary Tennyson, Senior Assistant Attorney General, Counsel to the Board  
Kate Reynolds, Assistant Attorney General, Counsel to Staff and Chief Prosecutor

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## BACKGROUND

The Executive Ethics Board (EEB) is an independent board made up of five individuals who are appointed by the Governor. The Office of the Attorney General provides staff for the Board. Board members strongly believe in the mission of the Board: 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 major goals for 2010 came from their 2009-2013 strategic plan, but the 2010 Supplemental Operating Budget mandated that the Board produce a report by the end of the calendar year for the Legislature "regarding performance measures on the efficiency and effectiveness of the board, as well as on the performance measures to measure and monitor the ethics and integrity of all state agencies." This mandate reprioritized the Board's goals and laid a foundation for measuring performance in the future.

The Board's overall desired outcome is to promote and assure ethical behavior by all state employees and officers. To achieve this goal and/or measure its success toward achieving this goal the Board developed the following desired outcomes:

1. Improve ethics education and training for all state employees and officers
2. Increase awareness of Board activities
3. Improve ethical conduct of state employees and officers
4. Provide quicker, more robust advice to state employees, officers and agencies regarding the Ethics Act.
5. Improve efficiency of complaint investigations

## Board Activities

### ***Advisory Opinions***

The Board began an in-depth review of all of its previously issued Advisory Opinions (AO) to determine if the advice was still current and applicable or whether the AO needed to be retired, repealed or revised. Throughout 2010 the Board reviewed the following AOs:

96-06	Retired	<i>Agency – Gifts – Section 4 employee – Hosted reception</i>
96-11	Retired	<i>De Minimis use of state resources - charity</i>
97-04	Retired	<i>De Minimis use of state resources</i>
98-10	Revised	<i>Receipt of door prizes</i>

99-02	Retired	<i>Use of State Resources/Non-profit Entities</i>
00-03 00-03A	Retired	<i>Use of State Resources/Cell Phones</i>
00-04	Retired	<i>Conflict of Interest/Outside Employment</i>
00-09	Retired	<i>Use of Resources/Combined Fund Drive</i>
00-10	Retired	<i>Use of Resources/Hunter's Education Program</i>
01-05	Retired	<i>Receipt of gifts by state officers</i>
01-07A	Revised	<i>Receipt of Gifts by Agencies</i>
02-04	Retired	<i>Use of State Facilities to distribute newspaper articles and editorial opinions</i>

### **Formal Board Advice**

Throughout the year, agencies request advice from the EEB on a variety of subjects. Here are some of the questions posed to the EEB in 2010:

- A. Can Washington State Patrol ("WSP") personnel participate in Special Olympics functions while in uniform without violating the Ethics in Public Service Act, RCW 42.52 or its rules?

**Conclusion:** Yes. WAC 292-110-010(2)(b) gives an agency head or designee the ability to authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty. The head of the WSP has authorized WSP personnel to wear the uniform during designated off-duty functions under WSP policy 16.00.030. This designation by the agency head falls under the exception delineated in WAC 292-110-010(5)(b), thus allowing WSP personnel to wear their uniforms to participate in Special Olympics functions.

- B. Can Washington Horse Racing Commission (WHRC) employees and commissioners bet on simulcast races without violating RCW 42.52.020 by merely changing their rule under WAC 260-14-040?

**Conclusion:** No. RCW 67.16.160 states in pertinent part: "In no case may a commissioner make any wager on the outcome of a horse race at a race meet conducted under the authority of the commission." Merely changing the rule would not supersede this statutory prohibition.

C. Can a former employee assist a non-state employer on a state contract in which the former employee participated, to perform the same duties s/he performed as a state employee? Further, can a former state employee assist a non-state employer on a state contract in which the former employee participated, to perform new duties, even if those duties were in the contract's scope of work without violating the Ethics in Public Service Act ?

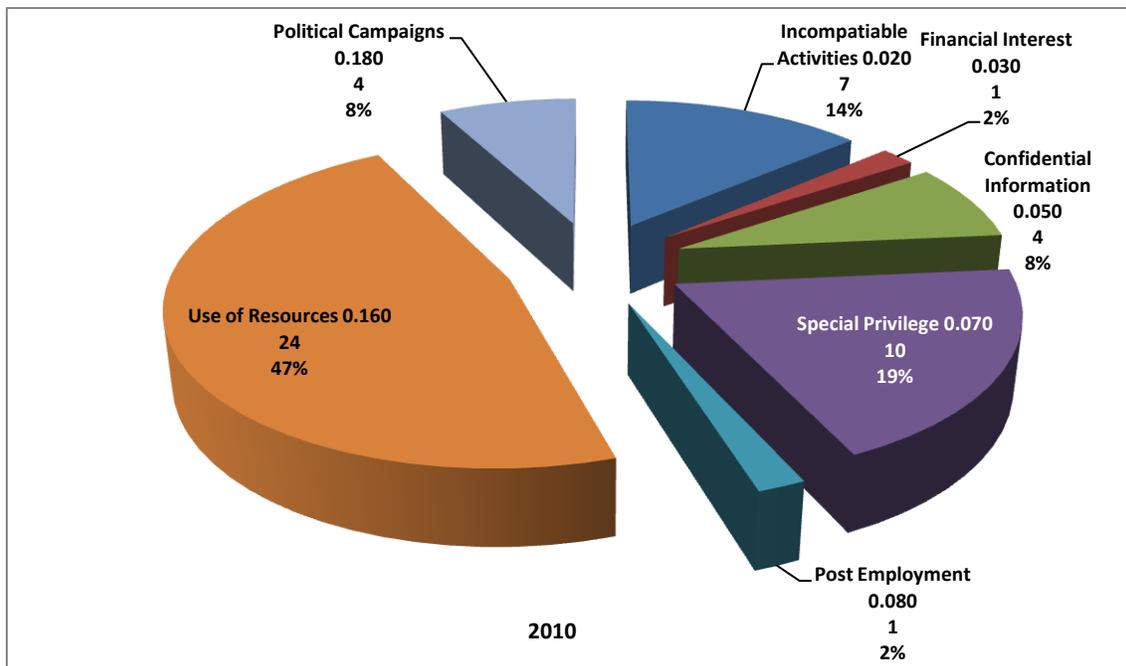
**Conclusion:** Due to the nature of the former employee's involvement the former employee did not personally and substantially participate in actions that would bar them from accepting post-state employment. While the former employee administered a contract with the vendor regarding logistical and security requirements, it is neither the spirit nor intent of the Act to forever bar a former state employee from working for a vendor merely because they worked with that vendor in some capacity while employed by the state.

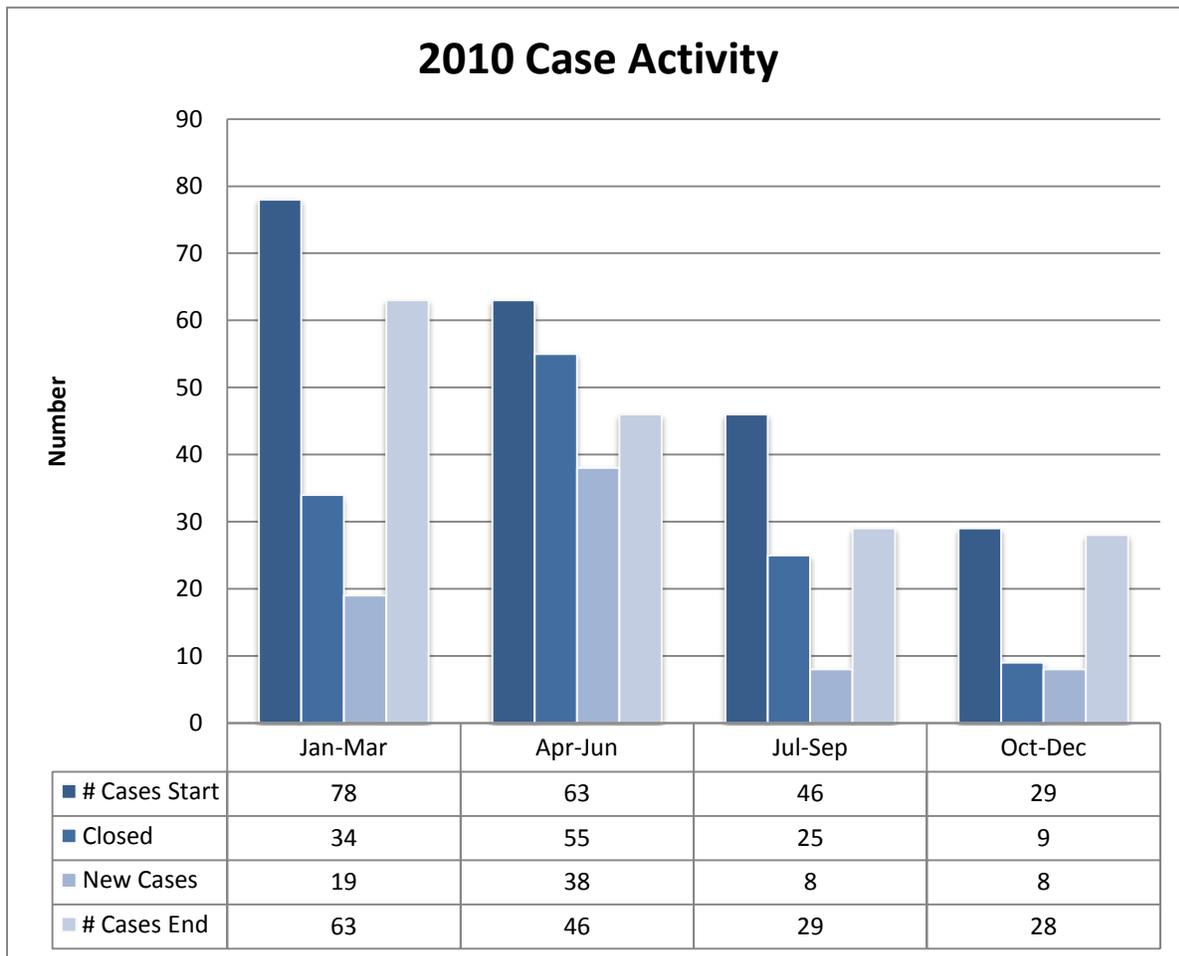
### Staff Activities

#### Enforcement Activities

Between January 1 and December 31, 2010 the EEB opened 73 new cases, an 8 percent increase over 2009. Penalties increased over 47 percent, totaling \$66,550 for 2010. This amount is more than four times the amount of penalties levied by the Board in 2008.

The use of public resources for personal gain was again the leading allegation for cases accepted for filing in 2010, with allegations regarding special privileges and conflicts of interest on the rise.





The Board accepted stipulated penalties from or imposed penalties on 14 individual state employees as follows:

Employee	Allegation	Violation	Penalty
Employee 1	A former employee of the Health Care Authority pursued and accepted employment with an entity conducting business with her agency.	RCW 42.52.020 and .080	\$500
Employee 2	An employee of the Department of Social and Health Services used state resources to pursue personal interests.	RCW 42.52.160	\$750
Employee 3	A former employee of the State of Washington, Seattle Central Community College, Seattle Maritime Academy, used his state computer to benefit an outside business.	RCW 42.52.160	\$250

Employee 4	A manager of the Community Colleges of Spokane Employee Compensation and Accounts Payable Division stored personal documents relating to outside business ventures on his state computer, and used his state computer to send and receive non-work-related emails.	RCW 42.52.160	\$1,000
Employee 5	An employee of the Department of Social and Health Services used state resources to pursue personal interests.	RCW 42.52.160	\$500
Employee 6	An employee of the Employment Security Division used her state computer to pursue personal matters including using the agency's address on her car registration.	RCW 42.52.160	\$500
Employee 7	An employee of the Department of Natural resources used state resources for personal matters.	RCW 42.52.160	\$50
Employee 8	An employee of the Department of Early Learning accessed sports-related sites, social networking sites, personal e-mail accounts, retail sites, banking sites and a site where he stored personal audio files. He also used his state computer to contact people to seek employment opportunities.	RCW 42.52.160	\$500
Employee 9	A faculty member of Bates Technical College used his position to obtain his student's personal cell phones to access and download their personal photographs onto his state computer and to download over 25,000 pornographic images from adult websites.	RCW 42.52.160	\$6,500
Employee 10	An Administrative Manager at the Washington State University College of Veterinary Medicine used state provided laptops and desktops to run her private transcription business.	RCW 42.52.160	\$10,000
Employee11	A Finance/Budget Coordinator for the Washington State University used three University-owned computers for personal Internet use on all three computers and over 2,400 non-work related records. Two state laptop computers showed no	RCW 42.52.160	\$6,000

evidence of University-related activity at all – only personal use.

Employee 12	An employee of the Public Disclosure Commission (PDC) ordered, purchased and removed from the PDC's premises 98 equipment items valued at \$21,467 for his personal use. The employee eventually returned 23 of these items, with the value of the remaining 75 missing items totaling \$12,573.96.	RCW 42.52.160	\$17,000
Employee 13	A part-time instructor for the University of Washington used his state e-mail address as a point of contact on a personal website he maintained that described classes he offered that were unrelated to his employment with UW.	RCW 42.52.160	\$500
Employee 14	An employee of Washington Department of Fish and Wildlife (WDFW) used his position to help broker projects between WDFW and a non-profit organization that he founded. He contracted with WDFW while acting for the non-profit organization. He transacted business for his non-profit organization using his state computer as well as using the WDFW computer for a variety of other non-work related purposes.	RCW 42.52.020, .030, .070 and .160	\$15,000
Employee 15	A Commissioner for the Human Rights Commission used his state-issued credit card to purchase items that were not reimbursable as Commission expenses. Out of a total of \$4,763.98 purchases made with the state credit card, only \$939.01 were determined to be reimbursable expenses. The Commissioner failed to timely pay the expenses charged to the credit card and the bank closed the account. The Commissioner eventually paid the balance.	RCW 42.52.160	\$7,500

## ***Training***

The EEB staff continued to offer training to all agencies in a classroom setting via a 4-hour in-depth look at the Ethics in Public Service Act, RCW 42.52 and a 2-hour refresher course for those employees who already have a good working knowledge of the Act. In 2010, the Board further improved its training offerings to include a robust on-line “Ethics Challenge” for employees to take in lieu of the two-hour course.

Over the past year, the EEB Staff held 24 training sessions across the state and trained over 1400 state employees. The EEB staff also presented at the Governor’s orientation of new board and commissioner members and participated in a continuing legal education session for the Attorney General’s Office.

## ***Ethics Advisors Group***

The Ethics Advisors Group met the week following the Board meeting to discuss Board actions and to provide input to the Board staff regarding opinions and performance measures. This advisory group was invaluable as a resource for developing employee surveys and measures of ethics programs.

## ***Human Resource (HR) Managers Group***

The Executive Director attended HR Managers meeting to provide information regarding ethical issues, elicit assistance regarding revisions to rules or policies and to gather input regarding training. These meetings helped disseminate information to agencies much quicker and have greatly enhanced the relationship and communication between the EEB staff and state agencies.

## ***EEB Newsletter***

The EEB Staff published an EEB Newsletter immediately following a Board meeting to inform state agencies of recent Board opinions and enforcement actions. These newsletters are posted on the ethics website for the public to read.

## ***Other Outreach Programs***

The Board staff revitalized the Board’s website by including an interactive blog that anyone can read and make comments about the ethics advice or just ask a question that they need guidance on. The website now also includes a “Board Blotter” that provides information about violations and fines imposed by the Board. The website also provides a survey for the public to take that will assist the Board in providing the services stakeholders desire.

## ***Outside Employment Contracts***

Per WAC 292-110-060, a state officer or employee must receive board approval before entering into, or obtaining a beneficial interest in, a contract or grant with a state agency only if the process for awarding the contract or grant was not open and competitive, or, whenever only one bid or application was received. In 2010, the EEB Director approved 45 contracts.

## ***Performance Measures***

The 2010 Supplemental Operating Budget mandated that the Board produce a report by the end of the calendar year for the Legislature “regarding performance measures on the efficiency and effectiveness of the board, as well as on the performance measures to measure and monitor the ethics and integrity of all state agencies.”

The Board is working to complete the following in 2011:

1. Increase hits on the Ethics website by 20 percent
2. Provide media release for every stipulation or final order within 30 days of effective date.
3. Issue media releases regarding new advisory opinions or rulings when warranted.
4. Send EEB newsletter to local government agencies and offices.
5. Increase number of agencies who have a published ethics policy by 20 percent.
6. Show positive changes in annual survey of agency ethics program.
7. Increase the number of agencies that incorporate an ethics section into their agency strategic plan, vision or mission statements by 10 percent.
8. Decrease number of recurring violations by 10 percent.
9. Review each Advisory opinion every 5 years.
10. Update Blog on a monthly basis.
11. Update FAQs every quarter
12. Triage complaints within 7 days of receipt 95 percent of the time.
13. Tackle investigative milestones in case management system for 100 percent of the cases accepted for investigation.
14. Track investigations to ensure they fall within established timelines 95 percent of the time.
15. Develop sanction guidelines for use by Board.
16. Develop complainant survey to ascertain timeliness of investigation.

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

