

Washington State Executive Ethics Board

Annual Report
2013

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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 are as follows:

- (1) One member is a member of the classified service;
- (2) One member is a state officer or state employee in an exempt position;
- (3) One member is a citizen at large;
- (4) One member is a citizen selected from a list provided by the state auditor; and,
- (5) One member is a citizen selected from a list provided by the attorney general.

Except for initial members and those completing partial terms, members serve a single five-year term during which time they may not hold partisan or full-time nonpartisan elective office, make campaign contributions, or lobby other than on matters relating to the ethics law. The members play a crucial role in the policy setting and enforcement of the Ethics Act.

Lisa Marsh, (Served as Chair January 1 – December 31) was appointed by Governor Gregoire in March 2011. She is the Chief Information Officer for the Employment Security Department. Lisa earned her J.D. from the University of Puget Sound School of Law in 1994 and an LL.M. in tax from the University of Washington in 1997; she has been licensed to practice law in 11 jurisdictions. Lisa has been in public service for over 25 years, including prior service as an Administrative Law Judge, an Assistant Attorney General, and a Senior Policy Advisor with the Department of Information Services. She has been recognized with the Governor's Award for Leadership in Management and the Excellence in Government Leadership Award; and her units have received two US Department of Labor awards: Performance Excellence in Tax Operations and the Unemployment Insurance Innovation Award for Integrity; both state and international awards from the International Association of Workplace Professionals; and both the 2011 and 2013 NASWA James F. Walls Team Award.

Anna Dudek Ross (Served as Vice Chair January 1 – December 31) was appointed by Governor Gregoire in May 2012 for a term of service extending through September 2016. Anna is a graduate of Macalester College and Vanderbilt University Law School. Anna worked as agency counsel for the U.S. Army Corps of Engineers and the Environmental Protection Agency, Region 10 focusing on environmental regulation and government contracting. She left federal service to serve as Deputy Counsel to a

presidential campaign. After the campaign, Anna founded and served as Managing Director of the Alaska office of a Seattle-based consulting firm. Anna is Associate Director of the Seattle University School of Law Center for Professional Development. Anna may frequently be found combing the beaches of Washington's myriad bodies of water with her husband and their Springer Spaniel.

Matthew Williams III, was nominated by State Auditor Brian Sonntag and appointed by Governor Christine Gregoire in November, 2009 for a term of service that extends until September, 2014. Mr. Williams is a retired Lieutenant Colonel, United States Army, and is a combat veteran of the Vietnam War (Bronze Star recipient) and Panama Incursion. Additionally, he is a tenured member of the U.S. Army Special Forces (*Green Berets*), and was the Senior Intelligence Officer for the 1st Special Operations Command (Airborne), Fort Bragg, N.C. Among his more distinguished military assignments, Mr. Williams was appointed Head of Delegation for NATO Intelligence Issues, NATO Headquarters, Brussels, Belgium, as well as serving as Adjunct Guest Lecturer at the Naval War College, Newport, Rhode Island. He is currently co-owner and educational training consultant with the *Fitz-Williams Group*, University Place, WA. Mr. Williams is a graduate of North Carolina Agricultural and Technical University, Greensboro, N.C., and holds a Bachelor of Science Degree in Business Administration. Moreover, he is a graduate of the Professional Teaching Certification Program at Saint Martin's University, Lacey, WA. He sings professionally in the local area.

Samantha Simmons was appointed by Governor Gregoire in October, 2012 for a term of service that extends until September, 2017 to fill the classified state employee board position. Ms. Simmons has been working in the public sector in Human Resources since 2003. Ms. Simmons started her career with the Department of Transportation and then promoted to a position with the Attorney General's Office. Ms. Simmons currently works for the Department of Social and Health Services as the Drug and Alcohol Free Program Specialist and Public Disclosure Coordinator.

Michael L. Bahn, BS, JD, Attorney [Retired], Mike was employed from April 1995 through December 2010 as a Staff Attorney for the Department of Health, serving the state's Medical Quality Assurance Commission. He performed the legal analysis and settlement of licensing and disciplinary cases generated by complaints of unprofessional conduct against medical doctors and physician assistants.

From August 1987 through March 1995 he was employed by the Department of Labor and Industries in the industrial safety and health division as the internal appeals hearings officer and administrative rules review officer.

Prior to working for the state, his law career began at the Spokane County Prosecutor's Office. Subsequently he entered private practice in Spokane specializing in contract, business, and employment law. He is a graduate of Gonzaga University School of Law, 1980, and the University of Wisconsin – Stevens Point, 1973.

Mike has served on the Washington State Bar Association's Administrative Law Section as its continuing legal education program coordinator. He served a 3-year term from September 2008 through August 2011 on the Bar Association's Disciplinary Board. He began serving on the Executive Ethics Board in May 2012 and resigned his position in March of 2013.

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: \$995,342

Board Members:

Lisa Marsh (3/14/11-9/30/15)
Anna Dudek Ross (5/2/12-9/30/16)
Matthew Williams III (11/7/09-9/30/14)
Samantha Simmons (10/2/12-9/30/17)
Michael Bahn (5/2/12- resigned 3/15/13)

Staff:

Melanie de Leon, Executive Director
Ruthann Bryant, Administrative Officer
David Killeen, Investigator

Legal Counsel:

Bruce Turcott, Assistant Attorney General, Counsel to the Board
Chad Standifer, 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 revamped its strategic plan for 2013-15 as follows:

Goals

Strategic goal #1: Strengthening the ethical culture and promoting a stronger ethical workforce within the executive branch of Washington State government.

The following three objectives support *Strengthening the Ethical Culture*:

- Objective 1.1 Enhance assistance to and oversight of agency ethics programs.
- Objective 1.2 Increase employee awareness of their ethics responsibilities.
- Objective 1.3 Increase focus on senior officials' role in implementing the ethics program.

Strategies for Objective 1.1

Ensure that ethics officials have the knowledge required to effectively carry out their duties by (1) expanding the number and type of training and education opportunities and (2) developing and maintaining an easily accessible database of informal ethics program advice.

EEB provides training and education opportunities to all ethics officials through classroom instruction, educational materials and on-line materials.

Action items:

- 1.1.1 Increase training opportunities offered by developing a web-based course and advanced instructor-led training.
- 1.1.2 Develop and maintain a system to centrally collect the informal advice the EEB provides and identify an appropriate mechanism to disseminate the advice

Strategies for Objective 1.2

Develop educational support for various sectors of the executive branch workforce.

Action items:

- 1.2.1. Develop educational materials focused on new employee orientations.
- 1.2.2. Develop specific educational materials for conflicts of interest, gifts and use of resources.
- 1.2.3. Ascertain the viability of mandating initial and refresher ethics training in the statute.

Strategies for Objective 1.3

Demonstrated enforcement of the ethics rules complements the training employees receive on the rules themselves. EEB will use data collected on administrative sanctions to reinforce the significance of the ethics program and will use the information to effectively focus education and outreach efforts.

Action items:

- 1.3.1. Develop and deploy ethics posters regarding enforcement actions.
- 1.3.2. Update Board Blotter with enforcement actions after each Board meeting.

Strategic goal #2: Promoting good governance.

EEB will seek to work with other local agencies that have responsibilities which are part of the larger goal of good governance. Additionally, by more proactively reaching out to the public and private sector about the executive branch ethics program, EEB promotes a better understanding of the standards expected of public servants.

OBJECTIVES

The following Objectives support *Promoting Good Governance*.

- Objective 2.1. Increase information sharing with Federal, state and local agencies implementing programs that help support good governance.
- Objective 2.2. Increase outreach to the private sector.

Action items:

- 2.1.1. Board and Board staff attend other local government and private sector ethics meetings.
- 2.1.2. Determine viability of a joint ethics conference for Fall 2013 that would include local and state ethics boards/commissions.

Strategic goal # 3: Improve the complaint process to make filing easier and investigation time shorter.

OBJECTIVES

The following Objectives support *Improving the complaint process*.

- Objective 3.1 Increase information to the public on the Board's jurisdiction and investigative process.
- Objective 3.2 Simplify process for public to file complaints
- Objective 3.3 Review investigative process as part of LEAN Governing initiative

Action items:

- 3.1.1 Develop citizen guide for filing complaints to help them understand the Board's jurisdiction and process.
- 3.1.2 Redesign website to make filing a complaint easier.
- 3.1.3 Review and reduce any waste found in the investigation process to reduce the time it takes to complete an investigation.

Concurrently, the Board must collect data and file an annual report to the Legislature regarding its progress on the legislative mandate contained in the Board's Operating Budget, which requires the Board to:

- (a) develop a statewide plan, with performance measures, to provide overall direction and accountability in all executive branch agencies and statewide elected offices;
- (b) coordinate and work with the commission on judicial conduct and the legislative ethics board;
- (c) assess and evaluate each agency's ethical culture through employee and stakeholder surveys, review Washington State Quality Award feedback reports, and publish an annual report on the results to the public; and
- (d) solicit outside evaluations, studies, and recommendations for improvements from academics, nonprofit organizations, the public disclosure commission, or other entities with expertise in ethics, integrity, and the public sector

Staff Activities

Personal Service Contract Managers

The Board staff annually gives a presentation at the Personal Service Contracts Overview, a 7-hour class for agency personnel who manage personal service contracts. In the presentation, the staff distributes informational materials and informs the agency personnel about conflicts of interest, post-employment laws, special privilege and use of state resources.

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. Every state agency, Board/Commission and all public universities, community colleges and technical institutes now have an appointed ethics advisor as required by an amendment to the Ethics Act that was effective in July. Representatives from this group is currently working with Board members to update the Use of Resources rule.

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.

Northwest Ethics Network

In 2011, representatives of the Board joined the Northwest Ethics Network (the Network). It was created in 1993 by Seattle University's Albers School for Business and Economics and is a conglomerate of local ethical leaders from over 30 non-profit, corporate, and government organizations. Throughout 2013, Board staff continued to participate in this Network.

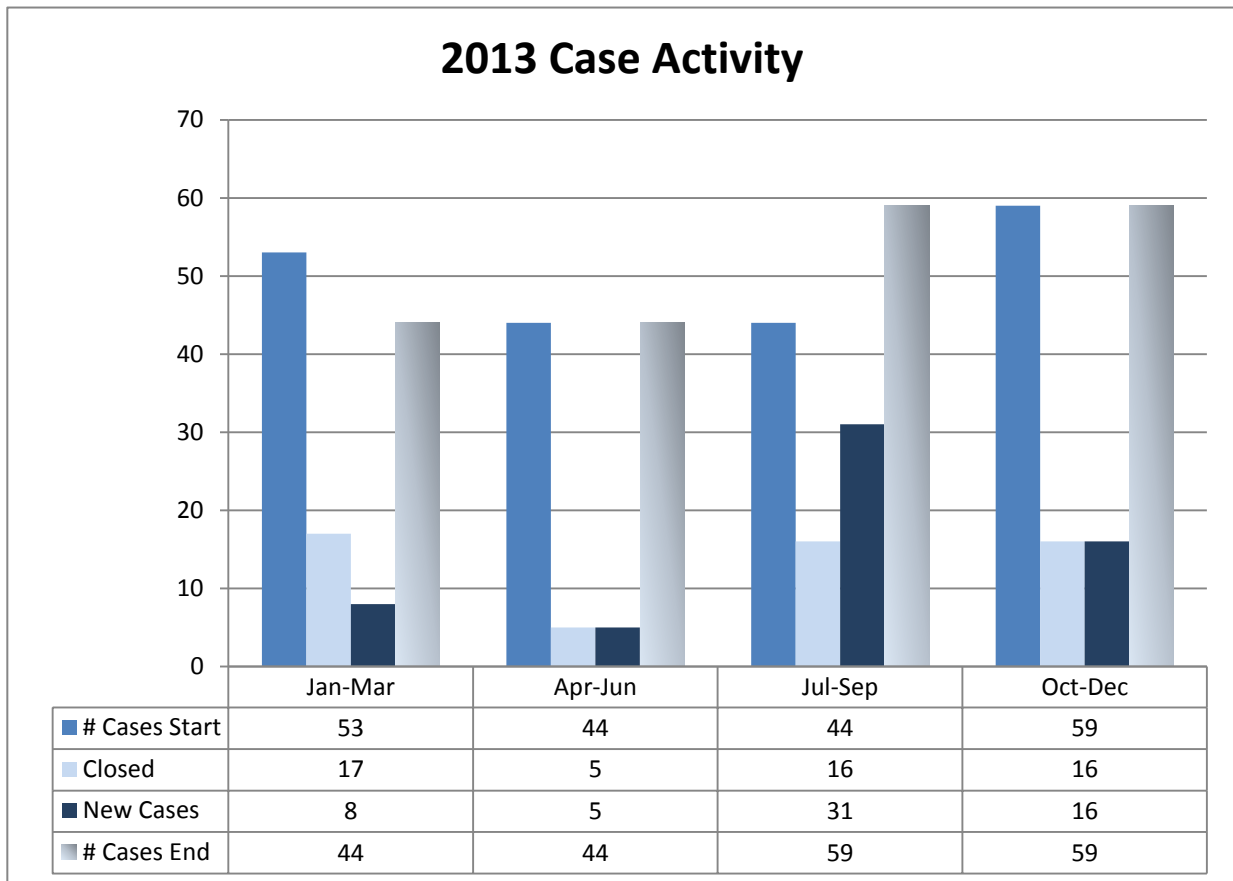
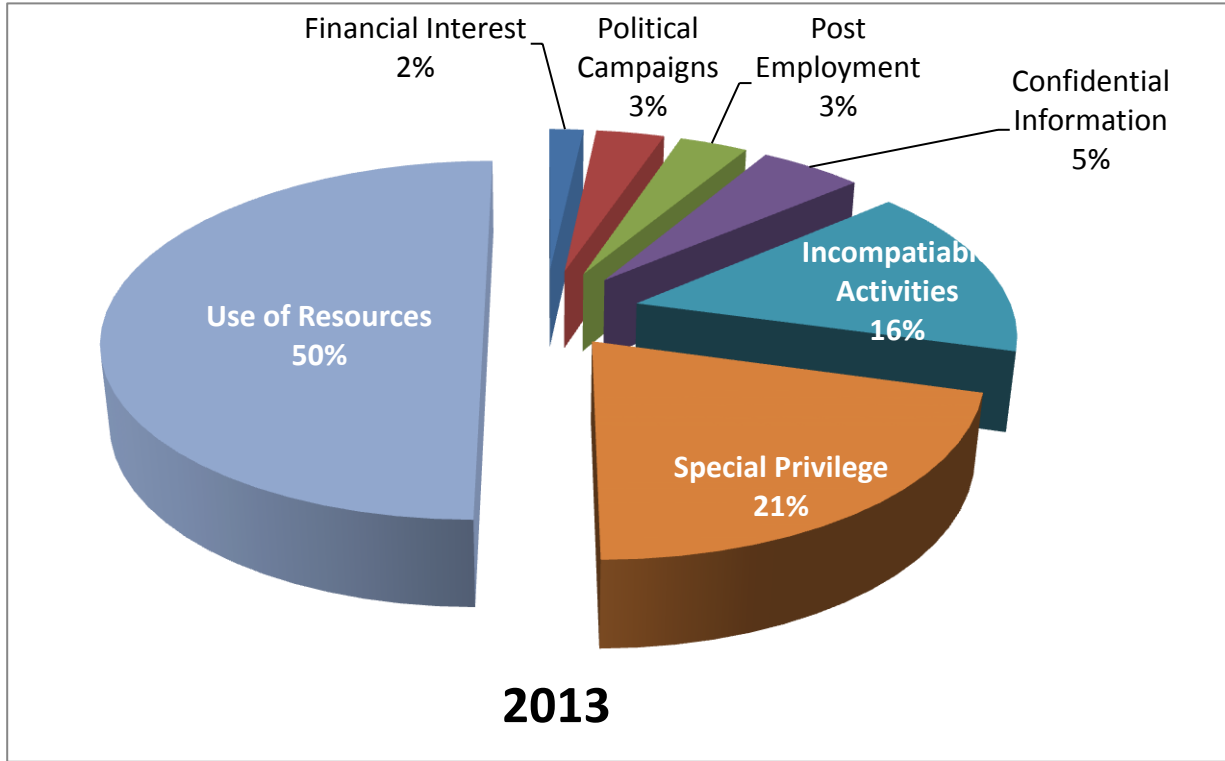
Project Management Institute

PMI is the world's largest not-for-profit membership association for the project management profession. PMI was the first organization to offer a credential specifically for project managers, and their certification program remains the global standard. The Board's Executive Director was requested by PMI to present a 2-hour session at the University of Washington's Project Management certification class on how to make ethical decisions and how the Ethics Act world impact decisions for a state employee or officer.

Enforcement Activities

Between January 1 and December 31, 2013 the EEB opened 50 new cases and settled 32 case with agreed stipulations, with civil penalties totaling \$102,950.

The use of public resources for personal gain was again the leading allegation for cases accepted for filing in 2013, with special privileges running the second most frequent allegation.



The Board imposed penalties or accepted stipulated penalties from 32 state employees as follows:

	<u>Allegation</u>	<u>Violation</u>	<u>Penalty</u>
Employee 1	An employee with the Department of Social and Health Services used state resources for private gain by using the state's underground parking garage to store personal vehicles.	RCW 42.52.160	\$ 4,000
Employee 2	An employee with the Department of Corrections used state resources to send an email from work to members of the Spokane City Council and the West Central Neighborhood Council in support of local business owners.	RCW 42.52.160	\$100
Employee 3	An employee with the Department of Natural Resources used her state computer to purchase an item from Craigslist.	RCW 42.52.160	\$100
Employee 4	A professor with Washington State University used state resources for personal gain in support of two outside business ventures	RCW 42.52.160	\$ 3,000
Employee 5	An employee with the Washington Military Department's Emergency Management Department used state resources for personal gain.	RCW 42.52.160	\$ 2,500
Employee 6	An employee with the Washington Military Department's Emergency Management Department used state resources for personal gain.	RCW 42.52.160	\$ 2,500
Employee 7	An employee with the Washington Military Department's Emergency Management Department used state resources for personal gain.	RCW 42.52.160	\$ 3,000
Employee 8	An employee with the Washington Military Department's Emergency Management Department used state resources for private gain.	RCW 42.52.160	\$ 2,500
Employee 9	An employee with the Washington Military Department's Emergency Management Department used state resources for personal benefit.	RCW 42.52.160	\$ 2,500

Employee 10	An employee with Tacoma Community College used her state computer to conduct personal business in regard to Pampered Chef and ItWorks.	RCW 42.52.160	\$ 2,500
Employee11	An employee with Central Washington University used state resources to support a political candidate for Superior Court Judge.	RCW 42.52.070 and 160	\$1,500
Employee 12	An Assistant Fire Chief with the Department of Social and Health Services -- special Commitment Center used state resources for personal gain and for using his position to secure a special privilege	RCW 42.52.070 and 160	\$ 9,000
Employee 13	An employee with the Emergency Management Division, Military Department used state resources to track personal finances and visited hundreds of websites that were not work related.	RCW 42.52.160	\$ 3,000
Employee 14	An employee of the Monroe Correctional Center, Department of Corrections used state resources to promote his political campaign for a Monroe City Council position.	RCW 42.52.160 and .180	\$ 1,250
Employee 15	An employee with the Department of Natural Resources provided himself a special privilege and improper use of state resources when he purchased shop supplies from a vendor not contracted with the state, when he received discounts from that vendor on personal purchases, for doing business with a non-contracted vendor whose account manager was a family member and for using shop supplies and facility to complete work on personal vehicles.	RCW 42.52.020, .030, .070 and 160	\$ 7,500
Employee 16	A Multimedia Production Technician with the University of Washington used agency multimedia equipment to produce a private film that he entered into a film competition.	RCW 42.52.160	\$ 4,000
Employee 17	An employee with Clark College used state resources to promote her outside employment of proctoring tests at the college.	RCW 42.52.160	\$ 2,500
Employee 18	An employee with Clark College used state resources to promote her outside	RCW 42.52.160	\$ 2,500

	employment of proctoring tests at the college.		
Employee 19	An employee of Clark College used the state's computer system to send/receive emails regarding her employment with the National Institute for Certification in Engineering Technologies (NICET) for proctoring their tests and provided NICET a special privilege by allowing them to use the college's assessment center without paying a fee.	RCW 42.52.070 and 160	\$ 4,000
Employee 20	An employee of Clark College sent/received emails on the state's system regarding outside employment.	RCW 42.52.160	\$ 2,500
Employee 21	A former Performance Management Analyst, Employment Security Department used the state's computer system and state time to further his outside interpreting services. An examination of his state computer also revealed that he had over 800 non-work related audio files, 28 video files and 1,964 non-work related photos.	RCW 42.52.160	\$ 2,500
Employee 22	A Correctional Sergeant, Department of Corrections used the state's computer system for over 30 hours of non-work related business. His access to the Internet for personal use revolved around news/celebrity and news/gossip sites.	RCW 42.52.160	\$ 3,000
Employee 23	An employee with the Office of Minority and Women's Business Enterprises used the agency's computer for personal interests.	RCW 42.52.160	\$ 2,500
Employee 24	Former Regional Manager, Employment Security Department used the agency's computer to send and receive email regarding his outside consulting business and his outside employment with Dale Carnegie Training.	RCW 42.52.160	\$ 2,000
Employee 25	An employee of Clark College sent/received emails on the state's system regarding outside employment as well as other personal business.	RCW 42.52.160	\$ 3,000
Employee 26	A Tax Specialist for the Employment Security Department used state resources for personal interests.	RCW 42.52.160	\$ 2,500
Employee 27	A Fire Control Technician, University of	RCW 42.52.160	\$ 5,000

	Washington, used the agency's computer to access non-work related sites on a recurring basis that was more than de minimis in nature. He spent at least 109 hours on his state computer visiting sites that were not job-related. During the days he was pursuing this personal business, he also requested and received paid overtime to accomplish his regular Lead duties.		
Employee 28	A Fire Control Technician, University of Washington, used the agency's computer to access non-work related sites on a recurring basis that was more than de minimis in nature. He spent at least 28 hours visiting sites on his state computer that were not job-related. The UW paid him overtime on the days where he was using the state computer for non-work related matters.	RCW 42.52.160	\$ 5, 000
Employee 29	An employee of Department of Social and Health Services used her state issued cell phone to place or receive 325 personal calls during a 24-month period of time, for over 1,000 minutes and incurring over \$100 in long distance and roaming charges.	RCW 42.52.160	\$ 3,000
Employee 30	A former employee of Highline Community College used state resources to promote his outside custodial business. The former employee hired his subordinates to work for him in his private business and also used agency equipment and resources to further his private business.	RCW 42.52.020, .070 and 160	\$ 8,000
Employee 31	An Employment Specialist, Employment Security Department, for used state resources for personal business.	RCW 42.52.160	\$ 4,500
Employee 32	An Office Assistant, Department of Labor and Industries used state resources for personal interests.	RCW 42.52.160	\$ 1,500
Employee 33	An instructor at Green River Community College used the agency's e-mail system and fax machine to send/receive correspondence regarding a non-agency matter.	RCW 42.52.160	Letter of Instruction

Training

The EEB staff provided ethics training to over 1,800 state employees, travelling all across Washington to bring the training to agencies as well as offering an in-depth class in Olympia every other month for any state employee to attend free of charge. Board staff is working with the Department of Enterprise Services to develop and deploy an on-line ethics training module that will be available to all state employees free of charge.

Over the past year, the EEB Staff held 43 training sessions across the state. EEB staff also presented continuing legal education sessions for the Department of Social and Health Services, Department of Health, and the Attorney General's Office.

EEB Newsletter

The EEB Staff publishes a 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.

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 2013, the EEB Staff reviewed and approved 110 contracts.

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

