



**APPEAL RIGHTS**  
**RECONSIDERATION OF FINAL ORDER – BOARD**

- a. Any party may ask the Executive Ethics Board to reconsider a **Final Order**. The request must be in writing and must include the specific grounds or reasons for the request.
- b. The request must be delivered to Board office within **20 days** after the postmark date of this order.
- c. The Board is deemed to have denied the request for reconsideration if, within 20 days from the date the request is filed, the Board does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. (RCW 34.05.470).
- d. The Respondent is not required to ask the Board to reconsider the **Final Order** before seeking judicial review by a superior court. (RCW 34.05.470).

**FURTHER APPEAL RIGHTS – SUPERIOR COURT**

- a. A **Final Order** issued by the Executive Ethics Board is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures are provided in RCW 34.05.510 - .598.
- b. The petition for judicial review must be filed with the superior court and served on the Board and any other parties within **30 days** of the date that the Board serves this **Final Order** on the parties. (RCW 34.05.542(2)). A petition for review must set forth:
  - (1) The name and mailing address of the petitioner;
  - (2) The name and mailing address of the petitioner's attorney, if any;
  - (3) The name and mailing address of the agency whose action is at issue;
  - (4) Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action;
  - (5) Identification of persons who were parties in any adjudicative proceedings that led to the agency action;
  - (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;
  - (7) The petitioner's reasons for believing that relief should be granted; and
  - (8) A request for relief, specifying the type and extent of relief requested.

RCW 34.05.545.

- c. Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

**ENFORCEMENT OF FINAL ORDERS**

- a. If there is no timely request for review or reconsideration, this Initial Order becomes a **Final Order**. The Respondent is legally obligated to pay any penalty assessed.

- b. The Board will seek to enforce a **Final Order** in superior court and recover legal costs and attorney's fees if the penalty remains unpaid and no petition for judicial review has been timely filed under chapter 34.05 RCW. This action will be taken without further order by the Board.



fundraising documents, banners, poems, personal correspondence to various persons, poems, and a birthday party invitation.

- II.3. During an interview on February 7, 2005, Ms. **Withheld** admitted she had printed some documents, primarily for editing purposes, but had not made copies on state equipment.
- II.4. Ms. **Withheld** is an exception workweek employee in a Washington Management Service position. Ms. **Withheld** has submitted leave slips for various reasons, including a leave slip for 32 hours for a trip to Hawaii. The allegation that Ms. **Withheld** took leave without submitting leave slips could not be substantiated.
- II.5. The BIIA issued a written reprimand to Ms. **Withheld** regarding her conduct in this matter.

### III. APPLICABLE LAW

RCW 42.52.160(1) states:

No state officer or state employee may employ or use any person, money, or property under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee, or another.

### IV. CONCLUSIONS OF LAW

- IV.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over **Withheld** and over the subject matter of this complaint.
- IV.2. A state officer or employee is prohibited under RCW 42.52.160 from using state property "under the officer's or employee's official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee or another."
- IV. 3. The Ethics in Public Service Act allows for de minimis personal use of state resources. WAC 292-110-010(4) states that employees may make occasional but limited personal use of state resources such as electronic messaging systems and the Internet if the use conforms with ethical standards and the employee's agency has adopted a policy authorizing Internet access consistent with the Board's de minimis rule. Ms. **Withheld** personal use of state resources, when viewed as a whole, does not constitute de minimis use allowed for under WAC 292-110-010(4).
- IV. 4. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360.

V.  
AGGRAVATING AND MITIGATING FACTORS

V.1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. In the case at hand, it is a mitigating factor that Ms. **Withheld** received a written reprimand from BIIA regarding her conduct (WAC 292-120-030(4)(a)).

VI.  
ORDER AND JUDGMENT

VI.1. Based on the foregoing Findings of Fact and Conclusions of Law, we, the Executive Ethics Board, hereby find that **Withheld** has violated RCW 42.52.160(1), and order her to pay a civil penalty in the amount of One thousand five hundred  
\$1,500<sup>00</sup>.

VI.2. Payment of the civil penalty of \$1,500<sup>00</sup> shall be made to the Executive Ethics Board within forty-five (45) days of this Order.

DATED this 13<sup>th</sup> day of July, 2006.

Trish Akana  
Trish Akana, Chair

Evelyn Yenson  
Evelyn Yenson, Vice-Chair

Paul Zellinsky  
Paul Zellinsky, Member

Judith Golberg  
Judith Golberg, Member

Neil Gorrell  
Neil Gorrell, Member