

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

No. 04-070

PATIENCE BOYLE,

ORDER AND JUDGMENT

Respondent.

I.
APPLICABLE PROCEDURAL ISSUES

- I.1. On September 8, 2006, the Executive Ethics Board (Board) found reasonable cause to believe that the Respondent, Patience Boyle, violated the Ethics in Public Service Act while employed with the State of Washington, Clark College. Notice of the Reasonable Cause Determination and the right to request a hearing was served upon Ms. Boyle by certified mail on September 14, 2006.
- I.2. More than 30 days have passed since notice of the Reasonable Cause Determination and of the right to request a hearing was served upon Ms. Boyle. She has not responded to the notice, either by filing an answer, requesting a hearing, or otherwise.
- I.3. On November 21, 2006, Board staff provided Ms. Boyle with notice by regular and certified mail of the Board's Order of Default and Temporary Adjournment of Further Proceedings entered on November 17, 2006.
- I.4. Pursuant to WAC 292-100-060(4) Ms. Boyle was allowed 10 days to request vacation of the Order of Default. Ms. Boyle has not moved to vacate the order entered on November 17, 2006.

II.
FINDINGS OF FACT

- II.1 Patience Boyle was employed by the State of Washington, Clark College, as an Information Technology Applications Specialist. The college terminated her employment effective August 15, 2005.

- II.2 The college investigated allegations that Ms. Boyle was using the state printer for personal purposes. The college reviewed the use of the printer and determined that between June 16 and June 29, 2004 over 2,000 copies were printed that were attributed to Ms. Boyle's print login. Ms. Boyle admitted that she had used the printer for personal business and for a business named KB Enterprises owned by her husband.
- II.3 The College took disciplinary action against Ms. Boyle as follows:
- Approval of an alternative work schedule was rescinded and Ms. Boyle was required to work a regular schedule from 8:00 a.m. to 5:00 p.m.
 - Ms. Boyle was required to keep a daily log of tasks that she is working on, including time spent to be submitted to her supervisor on a weekly basis.
 - Ms. Boyle was suspended without pay for two days, August 10 and August 19, 2004.
- II.4 A review of Ms. Boyle's computer on October 28, 2004 revealed Ms. Boyle used her state computer to perform bill paying to Verizon, USAA and Orchard Bank (credit cards) and research on a Best Western resort. Internet sites accessed between September 28, 2004 and October 28, 2004 related to cellular telephones, shopping, games, exercise clubs, credit card companies, entertainment and resorts. Ms. Boyle's computer contained a flyer for KB Enterprises (her husband's business).
- II.5 The SAO's review of Ms. Boyle's email between October 22 through October 26, 2004 revealed personal use, including e-mails to her husband, and another family member. For example, on October 25, from 9:26 a.m. until 10:16 a.m., Ms. Boyle sent seven personal e-mails not related to official duties; on October 26, 2004 from 8:36 a.m. to 1:28 p.m., Ms. Boyle sent 15 personal e-mails. Ms. Boyle received e-mail regarding Nintendo, Mileage Plus Partners, and Paypal Payments. These e-mails were not related to her official duties at the college.
- II.6 On July 28, 2005, the college dismissed Ms. Boyle from her position with the college. The effective date of the termination was August 15, 2005.
- II.7 On November 25, 2005, in an agreement between Clark College and Ms. Boyle, Ms. Boyle agreed to withdraw her union grievance, to not seek or accept reemployment with the college, to refer all inquiries from prospective employers to the Clark College Human Resources Manager and to release Clark College from all claims, grievances, causes of action, suits, civil or otherwise, based upon actions taken in their official capacities that arose out of or related to Ms. Boyle's employment.
- II.8 On November 25, 2005, Clark College agreed to pay Ms. Boyle \$6,968, minus any applicable withholdings required under state and federal law; that all employment inquiries were to be referred to the Human Resources Manager and that such inquiries will be answered only with dates of employment, job classification and rate of pay. The college agreed that no additional information regarding Ms. Boyles employment will be released without her written authorization

**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 Patience Boyle 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. Boyle's 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**

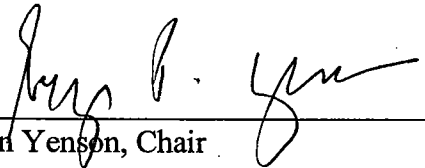
- V.1. In determining the appropriateness of the civil penalty, the criteria in WAC 292-120-030 has been reviewed. In the case at hand, it is an aggravating factor that Ms. Boyle continued to engage in the conduct after the college took disciplinary action. It is a mitigating factor that Ms. Boyle is no longer employed by Clark College.

**VI.
ORDER AND JUDGMENT**

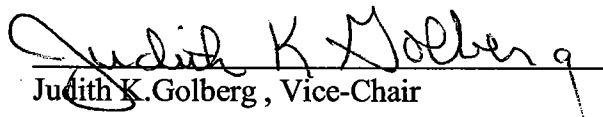
Based on the foregoing Findings of Fact and Conclusions of Law, we, the Executive Ethics Board, hereby find that Patience Boyle has violated RCW 42.52.160(1), and order her to pay a civil penalty in the amount of One Thousand Dollars (\$1,000.00).

VI.1. Payment of the civil penalty of \$1,000.00 shall be made to the Executive Ethics Board within forty-five (45) days of this Order.

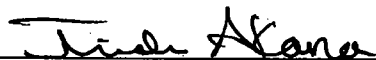
DATED this 9th day of February, 2007.



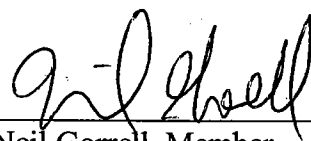
Evelyn Yenson, Chair



Judith K. Golberg, Vice-Chair



Trish Akana, Member



Neil Gorrell, Member



Kyle Usrey, Member