

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:



Respondent.

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No. 06-023

ORDER AND JUDGMENT

**I.**  
**APPLICABLE PROCEDURAL ISSUES**

- I.1. On October 13, 2006 the Executive Ethics Board (Board) found reasonable cause to believe that the Respondent, violated the Ethics in Public Service Act while employed with the State of Washington, Parks and Recreation Commission (Parks). Notice of the Reasonable Cause Determination and the right to request a hearing was served upon by certified mail on October 17, 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 . She has not responded to the notice, either by filing an answer, requesting a hearing, or otherwise.
- I.3. On February 13, 2007, Board staff provided with notice by regular and certified mail of the Board's Order of Default and Temporary Adjournment of Further Proceedings entered on February 9, 2007.
- I.4. Pursuant to WAC 292-100-060(4) was allowed 10 days to request vacation of the Order of Default. has not moved to vacate the order entered on February 9, 2007.

**II.**  
**FINDINGS OF FACT**

- II.1 was employed by Parks as an Office Assistant 2. resigned from Parks on July 24, 2006.
- II.2 Parks conducted an investigation into a complaint that was sending personal e-mails to other state employees using her state e-mail account. Parks found that during the 13 days that e-mail was randomly audited, the total number of personal e-mails totaled 316. Data captured consisted of approximately 72 hours of time within the 13 days (not counting any e-mails that may have written then permanently

deleted without the data being captured by the investigator who was randomly monitoring the unit).

II.3 The Parks investigation found the following personal e-mail use, sent to other state employees, during their investigation:

Date	Personal E-mail Totals	Description
July 18, 2005	17	Sent during a 3-hour period to one individual
July 26, 2005	10	Sent during a 4 hour period to one individual.
July 27, 2005	42	Sent during an 8 hour period to two individuals.
July 28, 2005	33	Sent during an 8.5 hour period to two individuals.
July 29, 2005	25	Sent during a 5 hour period to three individuals.
August 1, 2005	31	Sent during a 5 hour period to three individuals.
September 1, 2005	19	Sent during a 6 hour period to two individuals.
September 6, 2005	24	Sent during a 5.5 hour period to three individuals.
September 8, 2005	27	Sent during an 8 hour period to one individual.
September 9, 2005	9	Sent during a 2 hour period to one individual.
September 12, 2005	57	Sent during a 7 hour period to three individuals.
September 13, 2005	17	Sent during an 8 hour period to one individual.
September 14, 2005	5	Sent during a 2 hour period to one individual.

II.4 Board staff also reviewed [REDACTED] e-mail use. Staff investigation shows the following additional e-mails sent by [REDACTED] to one other state employee.

Date	Personal E-mail Totals	Description
August 22, 2005	39	Sent during an 8.5 hour period.
August 23, 2005	27	Sent during a 3.5 hour period.
August 24, 2005	27	Sent during a 6 hour period.
August 25, 2005	50	Sent during an 8.5 hour period .
August 29, 2005	18	Sent during an 8 hour period.
August 30, 2005	48	Sent during an 8.5 hour period.
August 31, 2005	42	Sent during an 8 hour period .

II.5 The content of [REDACTED] e-mail revealed gossip and discussion about other employees, inappropriate language, and personal information about [REDACTED] home situation and health.

II.6 In the interview on September 16, 2005, [REDACTED] admitted that she used the state computer system to send personal e-mails and estimated that she spends about 30 minutes per day on personal e-mails.

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- II.7 [REDACTED] attended ethics training on June 3, 2003 and on May 16, 2005. The May 16, 2005 training included appropriate use of state resources, including e-mail.
- II.8 [REDACTED] supervisor issued a memo on November 16, 2004 to [REDACTED] regarding personal telephone calls. Attached to the memo was the Agency's Policy/Procedure 70-15, Maintaining Ethical Standards, which specifically addresses *de minimis* use of state resources. [REDACTED] supervisor also discussed during a staff meeting, the inappropriateness of workplace gossiping and potential slandering of other agency employees.
- II.9 Parks Policy/Procedure 70-15, Maintaining Ethical Standards, states: "employees are personally responsible to exhibit ethical behavior in all their work activities." The policy also requires agency employees "to be familiar with the requirements and restrictions of the state ethics law." The section of the policy addressing *de minimis* use of state resources states that employees are obligated to protect state resources for public interest, "rather than their private interests." The policy allows *de minimis* use of state resources only if "... use is brief in duration and does not disrupt or distract from the conduct of state business due to volume or frequency..." [REDACTED] stated that it was her belief that it was permissible to exchange e-mail with other state employees and the policy prohibited sending messages to those outside state government.
- II.10 On November 7, 2005, Parks notified [REDACTED] that they were assessing discipline in the form of a 10 percent reduction in pay for a three-month period of time. This discipline would reduce her salary from Range 28, Step K (\$2,377 per month) to Range 28, Step G (\$2,167 per month). [REDACTED] grieved this discipline through her union and subsequently entered into a Settlement Agreement with Parks.
- II.11 The Settlement agreement states, in part:
2. WFSE agrees to ... withdraw Grievance ... concerning [REDACTED] reduction in pay ...
  3. PARKS agrees to remove the reduction in pay letter dated November 7, 2005 and all associated enclosures from [REDACTED] personnel file and place them in an administrative litigation file maintained in a locked file cabinet in Human Resources ... The parties also agree that all documents placed in the administrative litigation file pursuant to this paragraph will be removed from said file on November 16, 2012 if (a) circumstances do not warrant a longer retention period; and (b) there has been no intervening discipline for ethical violations; and (c) [REDACTED] submits a written request for their removal.
  4. PARKS agrees to pay [REDACTED] the amount of wages representing the difference between wages she actually received during her 3 month reduction (see letter dated November 7, 2005) and the wages she would have received had the reduction not been imposed. ...

...

7. PARKS issue a counseling memo in place of the disciplinary letter described above. The counseling memo will reflect that [REDACTED] was counseled for the seventeen (17) initially discovered emails at around the time they were discovered. All parties agree that this counseling memo replaces the reduction in pay letter described about, but will not be placed in [REDACTED] personnel file. [REDACTED] agrees that, regardless of any rights she may have under the CBA, PARKS may maintain this counseling memo in [REDACTED] supervisor's desk file until October 19, 2007, at which time it will be removed so long as [REDACTED] has committed no further ethical violations prior to October 19, 2007.
8. [REDACTED] agrees to send no additional emails of a personal nature from her agency issued computer or from any other state computer and also agrees to delete, without further reading any personal emails she may receive. ...

### 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 [REDACTED] 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. [REDACTED] 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 [REDACTED] is no longer employed by Parks.

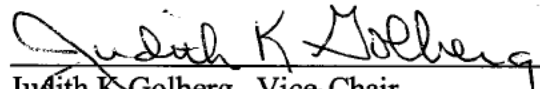
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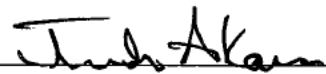
VI.1. Based on the foregoing Findings of Fact and Conclusions of Law, we, the Executive Ethics Board, hereby find that Trinette Meijer has violated RCW 42.52.160(1), and order her to pay a civil penalty in the amount of One thousand One hundred Fifty Dollars (\$ 1,150<sup>00</sup>).

VI.2. Payment of the civil penalty of \$ 1,150<sup>00</sup> shall be made to the Executive Ethics Board within forty-five (45) days of this Order.

DATED this 9th day of March, 2007.

  
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Evelyn P. Yenson, Chair

  
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Judith K. Golberg, Vice-Chair

  
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Trish Akana, Member

  
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Neil Gorrell, Member

  
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Kyle B. Usrey, Member