

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2014-038

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, [REDACTED] and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through Kate Reynolds, Executive Director pursuant to chapter 42.52 RCW, chapter 34.05 RCW, and WAC 292-100-090(1). The following stipulated facts, conclusions of law, and agreed order will be binding upon the parties if fully executed, and if accepted by the Board without modification(s), and will not be binding if rejected by the Board, or if the Respondent does not accept the Board's proposed modification(s), if any, to the stipulation. This stipulation is based on the following:

A. STIPULATED FACTS

1. On July 11, 2014, the Executive Ethics Board (Board) initiated a complaint referred by the State Auditor's Office (SAO) alleging that [REDACTED] Executive Assistant at Pierce College, may have violated the Ethics in Public Service Act by using state resources for her personal benefit.

2. [REDACTED] has worked for Pierce College as an Executive Assistant since March 2008 and was in that position for all times pertinent to this investigation.

3. On July 26, 2013, the SAO received an anonymous complaint that [REDACTED] was using state resources for her personal benefit and in support of two outside organizations.

4. The SAO investigator found evidence on her work computer showing that Ms. [REDACTED] was using state resources to support an outside business, the Springfield Waste Management Association. The SAO identified 59 emails from July 2012 through May 2013. Of those, 23 emails were sent in September 2012. Email documents and attachments discovered included:

- Customer invoices;
- Customer contact list and balances owed;
- Permit applications and approvals from local governments;
- Health Department evaluations for sewer systems; and
- Correspondence with Certified Public Accountants.

[REDACTED] indicated in her response that she worked as a volunteer and was not paid for her efforts.

5. The SAO also found 21 emails on her work computer regarding [REDACTED] child's school. The emails included items discussed at meetings regarding the sale of t-shirts and a Christmas fundraising, information on the purchase of t-shirts, and emails about the Christmas fundraiser. [REDACTED] indicated in her response that she was a parent volunteer assisting with a Christmas fundraiser for her child's school.

6. In addition to the evidence identified by the SAO, the Board investigator found additional evidence including approximately 25 emails regarding the sale and delivery of Scentsy candles to co-workers and friends. [REDACTED] indicated in her response that a co-worker was a sales representative for Scentsy and asked her to host a Scentsy party. She used the state email

system to invite individuals to the party, including co-workers. [REDACTED] indicated that she was not selling the products or making any profit.

7. [REDACTED] first attended ethics training on April 15, 2013 and again on September 17, 2014.

8. As a result of the SAO investigation [REDACTED] received a Letter of Reprimand from her employing agency.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources for their benefit. 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.

2. Based on the stipulated facts above, [REDACTED] used state resources for a personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

3. The Board is authorized to impose sanctions for violations to the Ethics Act pursuant to RCW 42.52.360. The Board has set forth criteria in WAC 292-120-030 for imposing sanctions and consideration of any mitigating or aggravating factors.

C. AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. In the matter at hand, it is an aggravating factor that [REDACTED] was in a position of trust within Pierce College and these types of violations significantly reduce the public respect and confidence in state government employees. It is a mitigating factor that Ms. [REDACTED] had not received ethics training from her agency, as a result, any violation of the ethics

act regarding the use of a state resource was unintentional and when she became aware of her violation, she took immediate steps in ensure it would not happen again.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] and over the subject matter of this complaint.
2. Under RCW 34.05.060, the Board can establish procedures for attempting and executing informal settlement of matters in lieu of more formal proceedings under the Administrative Procedures Act, including adjudicative hearings. The Board has established such procedures under WAC 292-100-090.
3. Pursuant to WAC 292-100-090(1), the parties have the authority to resolve this matter under the terms contained herein, subject to Board approval.
4. [REDACTED] agrees that if any or all of the alleged violations were proven at a hearing, the Board may impose sanctions, including a civil penalty under RCW 42.52.480(1)(b) of up to \$5,000, or the greater of three times the economic value of anything received or sought in violation of chapter 42.52 RCW, for each violation found. The Board may also order the payment of costs, including reasonable investigative costs, under RCW 42.52.480(1)(c).
5. [REDACTED] further agrees that the evidence available to the Board is such that the Board may conclude she violated the Ethics in Public Service Act. Therefore, in the interest of seeking an informal and expeditious resolution of this matter, the parties agree to entry of the stipulated findings of fact, conclusions of law and agreed order.
6. [REDACTED] waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or her acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2).

7. If the Board accepts this stipulation, the Board agrees to release and discharge [REDACTED] from all further ethics proceedings under chapter 42.52 RCW for any allegations arising out of the facts in this matter, subject to payment of the full amount of the civil penalty due and owing, any other costs imposed, and compliance with all other terms and conditions of the stipulation. [REDACTED] in turn agrees to release and discharge the Board, its officers, agents and employees from all claims, damages, and causes of action arising out of this complaint and this stipulation.

8. If the Board accepts this stipulation, it does not purport to settle any other claims between [REDACTED] and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future. No other claims of alleged violations are pending against [REDACTED] at this time.

9. If the Board accepts this stipulation, it is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

10. If the Board rejects this stipulation, or if [REDACTED] does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing before the Board. If an administrative hearing is scheduled before the Board, [REDACTED] waives any objection to participation by any Board member at the hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, [REDACTED] understands and agrees that this stipulation as well as information obtained during any settlement discussions between the parties shall not be admitted into evidence during the administrative hearing, unless otherwise agreed by the parties.

11. [REDACTED] agrees to pay a civil penalty in the amount of two thousand dollars (\$2,000) associated with the improper use of public resources, RCW 42.52.160. The Board

agrees to suspend one thousand dollars (\$1,000) on the condition that [REDACTED] complies with all terms and conditions of this Stipulation and Order and commits no further violations of RCW 42.52 for a period of two years from the date this agreement is executed.

12. The civil penalty of one thousand dollars (\$1,000) is payable in full to the Washington State Executive Ethics Board within forty-five (45) days after this stipulation is signed and accepted by the Board, or as otherwise agreed to by the parties.

E. CERTIFICATION

I, [REDACTED] hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify that I fully understand and agree to all of it, and that it may be presented to the Board without my appearance. I knowingly and voluntarily waive my right to a hearing in this matter and if the Board accepts the stipulation, I understand that I will receive a signed copy.

[REDACTED]
Respondent

3/3/2015
Date

Presented by:

K. Reynolds 3/11/15
KATE REYNOLDS Date
Executive Director

II. ORDER

Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

✓

ACCEPTED in its entirety;

REJECTED in its entirety;

MODIFIED. This stipulation will become the order of the Board if the

Respondent approves* the following modification(s):

DATED this 13th day of March 2015

Lisa Marsh

Lisa Marsh, Chair

Anna Dudek Ross

Anna Dudek Ross, Vice-Chair

Samantha Simmons

Samantha Simmons, Member

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Sumeer Singla, Member

* I, _____ accept/do not accept (circle one) the proposed modification(s).

_____ Respondent _____ Date