

1 **BEFORE THE WASHINGTON STATE**
2 **EXECUTIVE ETHICS BOARD**

3 In the Matter of:

EEB Case No. 2014-080

4 **FINAL ORDER**

5 Respondent
6

7 **I. PROCEDURAL HISTORY**

8
9 On May 8, 2015, the Executive Ethics Board (Board) found reasonable cause to believe
10 that the Respondent, [REDACTED], violated the Ethics in Public Service Act while employed
11 with Pierce College. Notice of the Reasonable Cause Determination and the right to request a
12 hearing was served upon [REDACTED] by regular mail and certified mail on September 11,
13 2015. [REDACTED] failed to respond to the Reasonable Cause Determination within 30 days as
14 required by WAC 292-100-060(2).

15 The Board entered an Order of Default on January 15, 2016. On January 20, 2016,
16 Board staff provided [REDACTED] with notice of the Board's Order of Default by regular and
17 certified mail.

18 Pursuant to WAC 292-100-060(4) [REDACTED] was allowed 10 days to request vacation of the
19 Order of Default. [REDACTED] has not moved to vacate the order entered on January 15, 2016.

20 **II. FINDINGS OF FACT**

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22 1. [REDACTED] first started working for Pierce College in 2008 and in 2010 moved
23 into the Admissions Office and was so employed for all times pertinent to the investigation.

24 2. In or around October of 2013, Pierce College initiated an internal investigation
25 into allegations made by the co-workers of [REDACTED], alleging that she was using her state
26 computer, internet, e-mail, printer, and phone for her personal benefit.

1 3. The internal investigation found substantial evidence to support the allegation
2 that [REDACTED] was using state resources for her personal benefit. On January 16, 2014 Pierce
3 College referred the case to the State Auditors Office (SAO) in the form of a whistleblower
4 complaint.

5 4. The SAO obtained [REDACTED] state issued computer hard drive and emails.
6 Because some of the internet history files were written over through the computer's normal
7 processes, the internet data was sporadic relative to dates.

8 5. The SAO's review of [REDACTED] internet history covered 28 days, between
9 October 23, 2013 and March 11, 2014. The browsing history including the following:

- 10 • Updating profiles on social networking sites.
- 11 • Shopping for clothing and cosmetics.
- 12 • Viewing videos on-line.
- 13 • Browsing personal interest and dating sites.
- 14 • Searching for religious-based youth treatment centers.
- 15 • On-line banking.
- 16 • At least two on-line purchases.

17 6. The SAO's investigation confirmed that [REDACTED] spent 875 minutes
18 browsing non-work related websites over the 28 days. That averages out to 31 minutes per
19 day browsing non-work related internet sites.

20 7. In addition to [REDACTED] internet use, there is evidence to show that she also
21 used the state email system for her personal benefit. A review of [REDACTED] emails from
22 January 1, 2013 through March 7, 2014 revealed that that she had exchanged over 250 non-
23 work related emails with co-workers. The majority of these non-work related emails were
24 exchanged between [REDACTED] and her supervisor. [REDACTED] supervisor admitted to the
25 exchange of these non-work related emails but explained that they were meant to boost moral
26 and not to misuse state resources. The emails including the sharing of pictures and links to
non-work related websites.

1 8. On August 27, 2014, [REDACTED] met with SAO investigators and Choi
2 Halladay (Mr. Halladay), Vice President of Administration/Ethics Officer. At that meeting the
3 use of state resources was clarified and [REDACTED] affirmed that she understood and would
4 follow ethics requirements moving forward.

5 9. On October 20, 2014, [REDACTED] had a follow up meeting with Mr. Halladay
6 and the Dean of Enrollment Services and Financial Aid, Ann White. During that meeting Ms.
7 [REDACTED] was asked by Mr. Holladay if she had stopped the misuse of state resources. Ms.
8 [REDACTED] adamantly confirmed that she had stopped. [REDACTED] was asked that if an
9 investigation was conducted would any misuse be found. [REDACTED] told them that nothing
10 would be found.

11 10. On October 29, 2014, Ms. White requested an internal investigation to verify
12 [REDACTED] use of her computer for non-work related use had stopped. For the period of
13 August 28, 2014 through November 12, 2014, the following non-work related items were
14 discovered in [REDACTED] email folders:

- 15
- 16 • 89 non-work related emails in her inbox;
- 17 • 6 non-work related emails sent to co-workers in her sent box;
- 18 • 16 items in the conversation history of instant messaging which appeared to be
unrelated to work.

19 11. Additionally, on average, Ms. Bates sent four non-work related emails every
20 workday between June 8, 2011 and October 16, 2013. On 25 of those work days Ms. Bates
21 sent more than 8 non-work related emails. Some examples of the number of emails sent on a
22 given day are shown below:

- 23
- 24 • 11 non-work related emails sent on September 25, 2012;
- 25 • 9 non-work related emails sent on July 31, 2012;
- 26 • 10 non-work related emails sent on June 1, 2012;
- 20 non-work related emails sent on May 3, 2012;

- 22 non-work related emails sent on April 17, 2012;
- 32 non-work related emails sent on January 24, 2012;
- 14 non-work related emails sent on January 23, 2012.

12. As a result of [REDACTED] continued misuse of state resources she was issued a letter of counseling on February 25, 2015.

III. CONCLUSIONS OF LAW

1. RCW 42.52.160(1) – Use of persons, money, or property for private gain, 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. Under WAC 292-110-010 (use of state resources) state employees may use state resources for personal use as long as the use is reasonably related to the conduct of the state employees; authorized by an agency head or designee as related to an official state purpose; or for a specific use that promotes organizational effectiveness or enhances job-related skills. Additionally, state employees are allowed occasional but limited use of state resources as long as the following conditions are met:

- (i) There is little or no cost to the state;
- (ii) Any use is brief;
- (iii) Any use occurs infrequently;
- (iv) The use does not interfere with the performance of any officer's or employee's official duties; and
- (v) The use does not compromise the security or integrity of state property, information, or software.

3. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over [REDACTED] and over the subject matter of this complaint.

4. Based on the evidence included in the SAO investigation, [REDACTED] used state computer resources for her private benefit or gain in violation of RCW 42.52.160. Ms.

1 [REDACTED] activities do not meet the permitted uses or exception for the use of state resources as
2 provided for in WAC 292-110-010.

3 5. The Board is authorized to impose sanctions for violations to the Ethics Act
4 pursuant to RCW 42.52.360.

5 6. In determining the appropriateness of the civil penalty, the criteria in WAC 292-
6 120-030 have been reviewed.

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8 **IV. FINAL ORDER**

9 Based on the foregoing:

10 IT IS HEREBY ORDERED Respondent [REDACTED] is liable for and shall pay a civil
11 penalty of two thousand dollars (\$2,000). The payment shall be made to the Executive Ethics
12 Board within forty-five (45) days of this Order.


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14 **V. AUTHORITY AND PROCEDURE**

15 Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for
16 Reconsideration stating the specific grounds upon which relief is requested. The Petition must
17 be filed with the Executive Ethics Board at 2425 Bristol Court SW, Olympia, Washington
18 98504, or by U.S. Mail at P.O. Box 40149, Olympia, Washington 98504-0149, within ten (10)
19 days of service of the Final Order upon Respondent.

20 The Petition for Reconsideration shall not stay the effectiveness of this order nor is a
21 Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely
22 Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the
23 petition is filed, the Board does not (a) dispose of the petition or (b) serve the parties with a
24 written notice specifying the date by which it will act on a petition.


1 Respondent has the right to petition the superior court for judicial review of the Board's
2 action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition
3 for Judicial Review, see RCW 34.05.510 and sections following.
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5 DATED this 18th day of March, 2016
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8 _____
9 Anna Dudek Ross, Chair

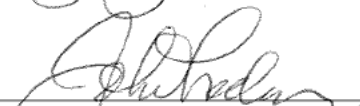


Lisa Marsh, Member

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13 Samantha Simmons, Vice-Chair



Sumeer Singla, Member

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16 John Ladenburg, Member
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