

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2014-083

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, ██████████, 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 November 10, 2014, the Executive Ethics Board (Board) received a complaint alleging that ██████████, Recreation Supervisor at Echo Glen Children's Center (Echo Glen) with the Washington State Department of Social and Health Services (DSHS), may have violated the Ethics in Public Service Act by using state resources for her personal benefit and gain in regards to her involvement in 4-H of Snohomish County.

2. ██████████ has worked for DSHS since September 1975 and was appointed to her current position as Recreation Supervisor at Echo Glen in October 1997. ██████████ has been in her current position for all times pertinent to this investigation.

3. Echo Glen is known for the Canine Connection program. The Canine Connection program is a non-profit pet therapy program established by DSHS which allows youth to train future service animals. The program was started in 2000 by [REDACTED] in partnership with the Snohomish 4-H dog program. [REDACTED] is the program director.

4. The program pairs juvenile offenders with abandoned, abused dogs with the intended goal of rehabilitation. The program promotes emotional growth through responsibility, empathy, patience, trust and communication. The Canine Connection program also teaches the skills of dog training, grooming, and care.

5. Echo Glen has been involved in the Washington State University (WSU) Extension 4-H Youth Development program for over 15 years. The Canine Connection program is a 4-H supported program. Echo Glen continues to utilize the 4-H curriculum and resources, including presenters and volunteers. The youth involved in the Canine Connection program are also able to earn points for completed 4-H projects. A number of the youth have earned their 4-H jackets, which acknowledges significant achievement in the 4-H program. Echo Glen has also participated in the annual Snohomish County Fair.

6. Echo Glen's connection to 4-H is not only with the Canine Connection program but also through photography and rope course programs. [REDACTED] is Echo Glen's 4-H club leader.

7. In August of 2012, Echo Glen received a complaint containing two screen shots of Ms. [REDACTED] sent emails related to the 4-H dog handlers. The screen shots showed 416 sent emails covering a period of February 29, 2010 through August 29, 2012, a 30-month period, for an average of about 14 emails per month.

8. In February of 2013, Echo Glen received another complaint from the same complainant indicating that [REDACTED] was using state resource to support the local 4-H dog program. This time the complaint was given to the Washington State Patrol to investigate. The complainant provided

DSHS with screen shots of 334 emails over a 31-month periods sent by [REDACTED] relating to 4-H dog handlers. There was one month during that period, September 2012, where [REDACTED] sent 12 emails from her DSHS email account related to 4-H dog handlers.

9. Board staff contacted the WSP sergeant who reviewed the complaint. The sergeant indicated that to the best of his recollection he reviewed the emails provided by the complainant. The sergeant eventually returned the case to Echo Glen indicating that it did not rise to the level that would require a WSP investigation. The sergeant also stated that at the time [REDACTED] had dual responsibilities as a 4-H executive officer in the Snohomish County 4-H dog program as well as the Canine Connection program supervisor for Echo Glen. At the conclusion of the WSP investigation, the sergeant made the suggestion to Echo Glen management that [REDACTED] should be provided with clear expectations regarding her duties involving the 4-H of Snohomish County and what was an acceptable amount of time and resources that should be used to conduct Snohomish County 4-H business.

10. Patti Berntsen (Ms. Berntsen), Associate Superintendent at Echo Glen and Ms. [REDACTED] direct supervisor, indicated to Board staff the she approves of [REDACTED] involvement in the Snohomish County 4-H program and indicated that she believes [REDACTED] involvement in the 4-H program has a direct benefit to the youth housed at Echo Glen.

11. Ms. Berntsen also indicated in her response to Board staff that for as long as she could remember residents of Echo Glen participating in the 4-H program displayed their projects at the annual Snohomish County Fair. Ms. Berntsen further indicated that in the past few years a few residents have also participated in the local community through training and workshops for the Canine Connection program.

12. Ms. Berntsen also indicted in her response that over the course of the last ten years Echo Glen has had a partnership with 4-H and the amount of work time [REDACTED] might devote to that

partnership would vary depending on the activities Echo Glen was providing to the residents at any particular time. Ms. Berntsen indicated that on average five hours per week devoted to the 4-H programs, including dog, photography and rope course, outside of the time spent providing the programs to the residents would be appropriate.

13. Nehemiah Mead (Mr. Mead), Superintendent at Echo Glen, indicated in his response to Board staff that he did not give [REDACTED] permission to use state resources in support of the Snohomish County 4-H Club; however, he believes that permission was given to [REDACTED] from her direct supervisor, Ms. Berntsen. Mr. Mead further indicated that he believes permission was granted based on the premise that Echo Glen residents were participating in 4-H activities and had been doing so for the last ten years. Mr. Mead also indicated in his response that he believes some involvement in the 4-H program by [REDACTED] would be acceptable, but he does not believe the amount and type of involvement alleged in the complaint would be.

14. [REDACTED] indicated in her response to Board staff that she did not spend much time on 4-H that did not involve the residents at Echo Glen, that she very seldom would edit or create documents related to 4-H and when she did, she would use the material at Echo Glen for the residents, and that she would spend a minimal amount of time responding to emails related to 4-H during work time. She further stated that there were some weeks that she would have more emails but most weeks there would be none at all.

15. [REDACTED] became the 4-H Dog Show Superintendent for Snohomish County 4-H in 2013. According to the Snohomish County 4-H Dog Leader By-Laws the duties of the Superintendent are as follows:

- A. Oversee the operations of the Dog Barn (Club) and 4-H events at the Evergreen State Fair.
- B. Order ribbons and update the Premium Book each year with the advice and input of Dog Leaders.
- C. Oversee the planning of trophies and ribbons for the fair and other dog events.
- D. Oversee the procurement of judges for the fair upon advice of the Dog Leaders.

- E. Interface with the Fairgrounds personnel and Extension faculty and staff.
- F. Take fair entries and schedule members' show days.
- G. Along with Program Leaders, be responsible for handling Dog Leader funds, keeping records and providing Dog Leaders with annual financial report in the Fall. Program Leaders and the Superintendent will be co-signers on Dog Leaders' checking and saving accounts.
- H. With Program Leader keep track of members' achievements for the annual Top Dog Awards.
- I. With Program Leader determine winners of Dog Care pins each year.

16. Board staff examined [REDACTED] emails on her work computer for the period of December 3, 2012 through December 2, 2014 and her work computer hard drive for evidence regarding the allegation she was using state computer resources to support her personal interest in the 4-H dog program. A summary of the number of emails by month is shown below:

Month/Year	Number	Month/Year	Number
12/12	61	1/14	121
1/13	172	2/14	56
2/13	70	3/14	42
3/13	129	4/14	30
4/13	78	5/14	72
5/13	89	6/14	76
6/13	88	7/14	227
7/13	265	8/14	282
8/13	91	9/14	147
9/13	48	10/14	50
10/13	47	11/14	32
11/13	58	12/14	7
12/13	92		
Total	1,288		1,229

17. In addition to the emails found on the DSHS email system, Board staff reviewed Ms. [REDACTED] computer hard drive and found an additional 120 emails related to 4-H for the period of December 3, 2014 through January 9, 2015.

18. Board staff also identified 30 word documents related to 4-H. Many of the documents indicate that [REDACTED] spent work time preparing, editing, and printing the documents. The following are some examples:

Title	Document type	Last saved	Printed	Length (pages)	Time editing
2015 Fair Schedule "Draft"	Word	1/8/15 at 11:40 am	12/12/14 at 9:43 am	6	
Washington State 4-H Dog Obedience Program	Word	1/7/15/ at 3:59 pm	3/31/10 at 10:44 am	2	
2013 Evergreen State Fair 4-H Dog Program Schedule	Word	3/12/14 at 4:57 pm		6	1 minute
Department J-Dogs	Word	11/21/14 at 10:36 am		5	
State Dog Committee Meeting Agenda	Word	10/18/14 at 3:46 pm	10/18/14 at 3:44 pm	2	
Officer Contract for Group Work	Word	9/29/14 at 1:16 pm	10/4/13 at 3:07 pm	3	
4-H – Teen Leader Retreat - 2014	Word	9/5/2014 at 11:38 am	10/4/13 at 3:07 pm		6 minutes
Panhandle Lake 4-H Camp	Word	10/14/13 at 2:54 pm		1	
Little Bert Goes to the Fair	Word	8/15/14 at 3:58 pm	8/15/14 at 3:58 pm		
Rules for 4-H Project and Fair	Word	7/16/14 at 11:21 am	7/8/14 at 10:32 am	4	
Fair 2014 Assignments	Word	7/16/14 at 9:09 am	7/8/14 at 2:25 pm	2	
Work Party	Word	7/16/14 at 8:46am		1	
Ring Steward Competition	Word	7/2/13 at 1:51 pm	7/2/13 at 1:47 pm	2	25 minutes

19. Board staff also reviewed [REDACTED] deleted emails located on the DSHS "H-Drive." Forty-two individual folders were located, and of those, sixteen appeared to be personal or related to the 4-H dog program.

Folder Name	Period	Total Emails	Period	Total Emails
4-H	1/29/01 – 5/5/14	795	7/12/12 – 5/5/14	127
agility	10/18/12 – 3/4/13	4	10/18/12 – 3/4/13	4
*CC Film Project	4/15/08 – 10/18/13	17		
D-TAYLAS Group e-mail	11/9/11 – 3/3/12	14		
Fair stuff	2/13/12 – 4/19/14	168		
Judges	9/24/07 – 10/24/13	37	3/9/12 – 1-/24/13	19
Leadership 4-H summit	10/30/12 – 1/29/13	11		11
Mentor new leader committee	12/30/08 – 11/21/11	46	11/7/11 – 11/21/11	13
Ob. Handling guide revisions	10/26/11 – 8/1/12	35		
Obedience	10/4/07 – 4/10/14	117	1//3/11 – 2/10/14	47
Officer retreat Oct 22-24	8/12/10 – 2/9/11	14		
Performance team	10/15/07 – 9/7/10	40		
showmanship	9/27/07 – 12/17/12	62	5/10/11 – 12/17/2	11
teen retreat	2/21/11 – 3/19/14	38		
Teen retreat 2010	8/11/10 – 2/19/11	51	1/4/11 – 2/19/11	23
Youth 4-h summit	12/21/11 – 12/20/12	2		
*Indicate emails that are related to an outside business opportunity to be covered below.				

20. In addition to emails related to the 4-H program, [REDACTED] had over 150 personal emails for the period of December 28, 2011 through January 9, 2015. Examples include; six emails related to the sale of a home including six documents scanned using a state scanner on July 18, 2012 through July 26, 2012, IRS Federal income tax return status from March 17, 2012, Sallie Mae automatic payment confirmations from December 28, 2011 and June 25, 2012, consignment for sale of a Steinway piano for \$17,000 on August 4, 2012 and a U-Haul rental agreement from August 5, 2012.

21. In 2008, a local film company contacted [REDACTED] about the possibility of the film company producing a motion picture based upon the Canine Connection program at Echo Glen as well as [REDACTED]'s involvement in the development and supervision of the program.

22. In April of 2008, the film company and [REDACTED] entered into a personal contract for the production of a motion picture based upon the Canine Connection program at Echo Glen. According to the terms of the contract, [REDACTED] would be paid \$5,000 to acquire certain delineated rights, as defined in the contract, for a one-year period. Should the motion picture go to production, she would receive credit as "Consultant [REDACTED]" with her title at Echo Glen and in relation to the Canine Connection Program.

23. By signing the contract, [REDACTED] agreed to consult and cooperate with the film company in connection with the development activities related to the production of the motion picture. Specifically, [REDACTED] agreed to share with the film company personal experiences and anecdotes in connection with the Canine Connection program, including any and all correspondence, documentation, memorabilia, photos, and the like which [REDACTED] may own or, subject to any confidentiality restrictions, have in her possession. [REDACTED] also agreed to share with the film company reasonable details of her personal history in order to provide context in the development of the Canine Connection program.

24. During Board staff's examination of [REDACTED] emails and computer hard drive; emails and documents regarding the contract, the screenplay and contract extensions were identified. The emails and documents indicated that the initial contract signed in April of 2008 was extended for 2009 thru 2012. For each extension, [REDACTED] was to be paid \$5,000.

25. Board staff found an email from November 12, 2013 indicating that the project was no longer moving forward.

26. [REDACTED] indicated in her response to Board staff that she was paid \$5,000 for the rights of her life story regarding Canine Connections. [REDACTED] further indicated that interviews and phone conversations for the project were done on her own time.

27. [REDACTED] also indicated in her response to Board staff that the film company only provided one extension of \$5,000. She further stated that she signed a contract indicating that she would decline further extensions. Board staff was not able to locate the contract [REDACTED] referenced in her response declining the extensions and [REDACTED] was also unable to provide the contract. However, board staff located three contract extensions with indications of payment.

28. [REDACTED] indicated in her response to Board staff that Echo Glen and the state approved the film company observing the Canine Connection program and interviewing staff and residents. [REDACTED] indicated that the agreement between Echo Glen, the state, and the film company had been agreed to and approved by Ms. Berntsen.

29. [REDACTED] indicated to Board staff that she was present at and arranged meetings between the kids and co-workers at Echo Glen and the film company during her normal working hours.

30. Ms. Berntsen indicated in her response to Board staff that she was aware of Ms. [REDACTED] involvement with the film company. She indicated that although the film company approached Echo Glen about doing a documentary on the Canine Connection program after a few conversations and meetings, for reasons she was not aware of, the film company did not follow through.

31. Ms. Berntsen indicated in her response that no production ever took place and as far as she was aware no one from the film company ever came out to Echo Glen, no one at Echo Glen was ever compensated for activities related to any production, and Echo Glen received no benefit from any production the film company was interested in.

32. [REDACTED] did not request authorization for outside employment with the film company. In her response to Board staff [REDACTED] indicated that she did not think this would be considered employment outside her normal job duties because she did not think of herself an employee of the film company.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from conducting activities incompatible with their public duty (conflict of interest). RCW 42.52.020 states:

No state officer or state employee may have an interest, financial or otherwise, direct or indirect, or engage in a business or transaction or professional activity, or incur an obligation of any nature, that is in conflict with the proper discharge of the state officer's or state employee's official duties.

2. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from securing special privileges. RCW 42.52.070 states:

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

3. Based on the stipulated facts, [REDACTED] entered into an agreement with the film company to create a movie about a state program, the Canine Connection Program at Echo Glen, and her role in the program as a state employee, without the knowledge or consent of her employer. Additionally, Ms. [REDACTED] used her position as the state employee responsible for the Canine Connection program to personally benefit. This activity is in violation of RCW 42.52.020 and RCW 42.52.070.

4. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from receiving additional compensation for the performance of their official duties. RCW 42.52.110 states:

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency..

5. Based on the stipulated facts above, [REDACTED] was working at Echo Glen in her official capacity during times when she assisted the film company in interviews of residence and co-

workers and for general observation of the Canine Connection Program. During this time, Ms. [REDACTED] was being paid as a state employee and also compensated by the film company, in violation of RCW 42.52.110.

6. 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.

7. Based on the stipulated facts above, [REDACTED] used state resources for her private benefit or gain regarding her involvement with the Snohomish County 4-H Dog Program and in support of her outside employment with the film company in violation of RCW 42.52.160.

8. 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, these types of violations significantly reduce the public respect and confidence in state government employees.

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 he 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 eight-thousand dollars (\$8,000) for the violations associated with RCW 42.52. The Board agrees to suspend four-thousand dollars (\$4,000) 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 in the amount of four-thousand dollars (\$4,000) 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.

II. 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 Signature]

8-25-16
Date

Respondent

Presented by:

K. Reynolds

KATE REYNOLDS
Executive Director

9/6/16

Date

II. ORDER

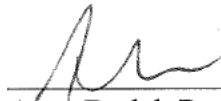
Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

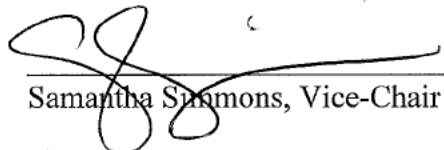
✓ ACCEPTED in its entirety;


 REJECTED in its entirety;

 MODIFIED. This stipulation will become the order of the Board if the Respondent approves* the following modification(s):

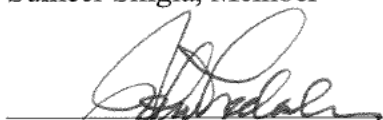
DATED this 9th day of September, 2016


Anna Dudek Ross, Chair


Samantha Simmons, Vice-Chair


Lisa Marsh, Member


Sumeer Singla, Member


John Ladenburg, Sr., Member

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

 , Respondent

 Date