

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

[REDACTED]

Respondent.

No. 2015-023

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 February 18, 2015, the Executive Ethics Board (Board) received a referral from the State Auditor's Office (SAO) alleging that [REDACTED], Psychology Associate with the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act. He did so by using his position with DOC to influence the placement of his son within a state program administered by the Department of Social and Health Services (DSHS), Children's Administration.

2. During all times pertinent to this investigation, [REDACTED] was a Psychology Associate with the DOC.

3. The Children's Administration makes determinations of a child's program placement. The Behavior Rehabilitation Service (BRS) Division is a division within Children's Administration. When a child is placed within BRS, they go through an evaluation process. This process includes obtaining information regarding the child's evaluations and assessments, such as court, medical and psychiatric reports and documents from the DSHS' Juvenile Rehabilitation Administration (JRA). Although the program has guidelines on placement, the assigned DSHS caseworker has discretion on placement decisions.

4. The DOC provides mental health services to offenders. DOC mental health staff use a document titled "Mental Health Appraisal" to evaluate an offender's mental health status and needs. This form is a DOC form and not available to the public.

5. As a Psychology Associate, [REDACTED] evaluates, diagnoses and determines the mental and emotional adjustment of newly committed inmates. He is familiar with the DOC Mental Health Appraisal form used for the initial or updated mental health assessment of an offender within the DOC system.

6. Sometime around September 2013, [REDACTED] was going through the process to get his child, TG, into a program sponsored by DSHS' BRS. Prior to that, TG was receiving treatment under a court order. [REDACTED] was not satisfied with the court ordered treatment plan and sought to have his son placed into a BRS program.

7. On September 26, 2013, [REDACTED] completed an assessment on TG using the DOC Mental Assessment form. The form indicated that the reason for the assessment was to

assist his assigned counselor and social worker with his recovery and that TG was currently in the Juvenile Rehabilitation Administration (JRA) system. The form was completed during Mr. [REDACTED] work hours. The completed Mental Health Appraisal and other documents regarding the mental health of TG were sent from [REDACTED] DOC email account to two private email accounts.

8. On December 11, 2013, in an effort find a program that could offer TG some help, a meeting with TG's counselor and a representative from the DSHS was held. At some point during the meeting, the Northwest Children's Home (NWCH) was mentioned as a possible placement. In an effort to assist the BRS in the placement of TG into the NWCH, background documents related to TG were requested from [REDACTED]. At that time, [REDACTED] provided DSHS staff with documents, including the DOC Mental Health Appraisal form, which DSHS could use to evaluate what services and possible placement best suited TG's needs.

9. The DOC Mental Health Appraisal provided by [REDACTED] appears to be the initial mental health assessment of TG, a juvenile offender, DOC # 222222, currently housed at the Nasselle Youth Camp. It indicates the mental health assessment done to comply with the offender's health plan pursuant to DOC policy 610.040. The form also indicates that it was completed on October 24, 2013 and appears to be an authentic DOC Mental Health Appraisal completed by DOC Psychology Associate [REDACTED].

10. At the time [REDACTED] completed the appraisal his son was not incarcerated at the Nassell Youth Camp and was not currently in the JRA system.

11. [REDACTED] does not deny providing DSHS with the completed Mental Health Assessment form but denies he gave it DSHS to in an attempt to influence them in placing his son at the NWCH.

12. [REDACTED] further stated that he used the form because it was familiar to him and a way to quickly reference everything he had gone through regarding his son. He stated that he tried to fill the form out as if he was someone else evaluating his son. At the time, he indicated that that he had no intention to submit it to be used in evaluating whether his son was placed at the NWCH.

13. Before the December meeting, a decision by DSHS to accept TG had already been made but the issue at hand was where he would be placed.

14. Social Service Specialist Jennifer Martin (DSHS) told investigators that she did not ask for the DOC Mental Health Appraisal, indicating that she was not even aware that the form existed. She also stated that it is not uncommon for the parents to provide large amounts of background information. Ms. Martin indicated that she felt that the form was included as an official independent evaluation of the child. Ms. Martin included the Mental Health Appraisal in the packet of documentation used in determination of TG's behavioral needs and level of therapeutic care.

15. DSHS caseworkers advised Board staff that they would have strongly considered a valid Mental Health Appraisal form in making a determination as to where TG would be placed.

16. DSHS Regional Programs Consultant, Michael Campbell, told SAO and Board staff investigators that it is his job to review applications and documentation submitted for program placement. During his review of the documents submitted by the parents of TG, the

DOC Mental Health Appraisal form appeared out of place and was suspicious to Mr. Campbell. The document was suspicious for many reasons. First, a DOC form was used and Mr. [REDACTED] was the preparer of the document. Second, the DOC number assigned to the juvenile was actually assigned to an inmate in his seventies or eighties. Third, the narratives in the report indicated that the juvenile was an inmate at the Nasselle Youth Camp. The Nasselle Youth Camp is not a DOC facility and there were no records of the juvenile being at the facility. Mr. Campbell felt that the document was intended to legitimize the request for placement in the program. Mr. Campbell further stated that the completed form makes it appear that a formal evaluation had been completed. Mr. Campbell determined the evaluation was not valid during the case review process and did not use the form in making a determination of appropriate placement for TG.

17. TG was initially placed into a therapeutic foster care facility in his community, but [REDACTED] kept pursuing placement into the NWCH. On February 12, 2014, Mr. [REDACTED] sent an email from his DOC computer to Mr. Campbell. The email asked Mr. Campbell if there was anything needed to justify TG's placement in the NWCH. It further stated that if TG was not eventually placed at the NWCH and TG committed other violation it would be the fault of DSHS for not doing more for his son. The email was signed [REDACTED], AAC, Psychology Associate, Wash State Penn and included his work phone number of (509)524-7719.

18. On February 14, 2014, [REDACTED] sent an email from his state computer to the NWCH. The email was regarding if the NWCH had started the process for admitting his son and wanted to know if Mr. Campbell from DSHS had contacted them yet. The email was also

signed [REDACTED], AAC, Psychology Associate, Wash State Penn, and included his work phone number of (509)524-7719.

19. Eventually, TG was placed at the NWCH.

B. CONCLUSIONS OF LAW

1. 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.

2. Based on the stipulated facts above, [REDACTED] used his position and DOC resources in an effort to secure a special privilege for himself and his son in violation of RCW 42.52.070.

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 these types of violations significantly reduce the public respect and confidence in state government employees. In the matter at hand, it is a mitigating factor that [REDACTED] states he did not intend to influence the placement of his child into any particular program within DSHS.

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 his 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.

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 one thousand, five hundred dollars (\$1,500). The Board agrees to suspend seven hundred and fifty dollars

(\$750) on the condition that [REDACTED] complies with all terms and conditions of this stipulation and commits no further violations of chapter 42.52 RCW for a period of two years from the date this stipulation is signed and accepted by the Board.

12. The non-suspended portion of the civil penalty in the amount of seven hundred and fifty dollars (\$750) 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]

6/3/15
Date

Respondent

Presented by:

L. Reynolds 6/11/15
KATE REYNOLDS Date
Executive Director

