

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2015-052

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 August 5, 2015, the Executive Ethics Board (Board) received a referral from the State Auditor's Office (SAO) alleging that ██████████, Program Manager with Grays Harbor College (GHC) located at the Stafford Creek Correctional Center (SCCC) of the Department of Corrections (DOC), may have violated the Ethics in Public Service Act by taking time off from work without submitting the proper leave slips and by providing a special privilege to a subordinate, Paula Boener (Ms. Boener), by allowing her to take time off from work without submitting the proper leave slips.

2. [REDACTED] was hired by GHC in 2010 as the Dean for Education at the SCCC DOC and has been in that position for all times pertinent to this investigation.

3. On June 13, 2014, the SAO received a whistleblower report alleging that [REDACTED] was taking time off from work without submitting the proper leave and that she was allowing a subordinate, Ms. Boener, to take time from work without submitting the proper leave.

4. There was no evidence found to support the allegation that [REDACTED] was taking time off from work or to show that she had allowed one of her employees to take time off without submitting the proper leave.

5. However, the review of [REDACTED] computer hard drive by the SAO found evidence that she was using the laptop computer to visit non-work related internet sites. The SAO investigation revealed that from June 9, 2013 to June 30, 2014 Ms. [REDACTED] had logged onto her work laptop computer 70 days. On 26 of those days the laptop was used exclusively for non-work related internet activity. The SAO calculated that during those 26 days [REDACTED] spent 538 minutes accessing internet sites for recipes, product reviews, social media, and her personal email account. For the remaining 44 days the SAO's review revealed 449 minutes of non-work related internet activity. Some examples of the sites visited are shown below.

- Xfinity.comcast.net
- Web.mail.comcast.net
- Verizonwireless.com
- Cm.netteller.com/login
- Soundcu.com -online banking/bill payer
- Pinterest.com
- Worldmarket.com
- Amazon.com
- Westportwinery.com
- Rodale.com
- Top-foods.com
- Safeway.com

- Kraftrecipes.com
- Bettycrocker.com
- Allrecipes.com
- Tacomarv.com
- Costco.com
- WebMD.com
- Easybreath.com/cart=paypalcheckout
- Sparkspeople.com
- Poolgeek.com
- Consumer reports/org
- Consumer health answers.com

6. [REDACTED] received a verbal reprimand from her supervisor at GHC for her improper use of her state computer.

7. [REDACTED] has since retired from state service.

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.

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 these types of violations significantly reduce the public respect and confidence in state government employees they were continuous in nature, and [REDACTED] was in a supervisory position at the time.

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 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. 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 one thousand dollars (\$1,000) associated with the improper use of public resources, RCW 42.52.160.

12. The civil penalty in the amount 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.

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] 6-13-17
Date
Respondent

Presented by:

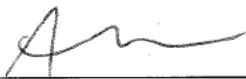
L. Reynolds 6/19/17
KATE REYNOLDS Date
Executive Director

II. ORDER

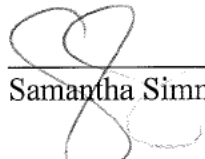
Having reviewed the proposed stipulation, WE, THE STATE OF WASHINGTON EXECUTIVE ETHICS BOARD, pursuant to WAC 292-100-090, HEREBY ORDER that the Stipulation is

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):

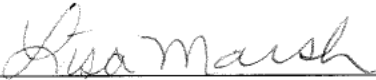
DATED this 14th day of July, 2017



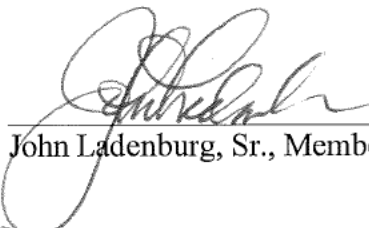
Anna Dudek Ross, Chair



Samantha Simmons, Vice-Chair



Lisa Marsh, Member



John Ladenburg, Sr., Member



Shirley Battan, Member

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

[REDACTED], Respondent _____ Date