

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Karina Austin

Respondent.

No. 2016-072

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, KARINA AUSTIN 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 October 3, 2016, the Executive Ethics Board (Board) received a complaint alleging that Karina Austin (Ms. Austin), a PREA Compliance Manager with the Washington State Department of Corrections (DOC), may have violated the Ethics in Public Service Act by using state resources for her private benefit and gain when she used a state vehicle for personal use on two separate occasions.

2. The complaint alleged that during a state authorized business trip to Olympia for a PREA team meeting, Ms. Austin had used a state vehicle which had been issued to her to drive herself and another state employee to a Seattle Mariners baseball game. The complaint further

alleged that Ms. Austin had consumed alcohol before and during the game and then drove the vehicle back to Olympia while under the influence of alcohol.

3. Records provided by DOC indicate that Ms. Austin attended a PREA team meeting in Olympia from July 20-22, 2014. She was authorized to use of a state vehicle for the trip and checked a vehicle out on July 20th from the Coyote Ridge Correction Center (CRCC) in Connell, Washington where she is employed. Another DOC coworker accompanied Ms. Austin to attend the meetings with her.

4. The Seattle Mariners schedule for 2014 reflects that they played a home game at Safeco Field on July 21, 2014. The coworker who accompanied Ms. Austin on state business told Board staff that she had been given tickets to attend the Mariners game. After their meeting in Olympia, they drove them from Olympia to the game in Seattle in the state issued vehicle.

5. Ms. Austin told Board staff that she had driven them in the state car to the Mariners game on July 21st. She said at the time she was fairly new to state service new and recently appointed to the PREA position, which required the travel to Olympia for meetings. She said she was not familiar with DOC policies pertaining to the use of state vehicles. Ms. Austin said she consumed two alcoholic drinks prior to the game after they arrived in Seattle and did not consume any alcohol during the game. She felt completely sober while driving back to Olympia which she estimated was 4-5 hours after her last drink.

6. The complaint further alleged that following another PREA meeting in Olympia in August 2014, Ms. Austin used the state vehicle to pick up her daughter on her return trip to Connell. Records provided by DOC indicate that Ms. Austin was issued a state vehicle on August 7, 2014 and authorized for overnight travel to Olympia for a PREA team meeting.

7. Ms. Austin told Board staff she attended the August PREA meeting with the same co-worker. She discussed picking up her daughter who was visiting friends in Lacey. She was

unaware that DOC vehicle use policies forbid it. Her daughter rode with them back to Connell. Ms. Austin told Board staff that since the incidents she has familiarized herself with the DOC vehicle use policies that forbid unauthorized passengers.

8. Relevant sections of DOC vehicle use policy 230.500 reads in part; *Use of state owned or operated vehicles must be authorized and for official state business only as directed by his/her supervisor in order to accomplish state programs or as required by the duties of his/her position or office. Section V: Operation of State Owned and Operated Motor Vehicles reads in part; The operator will: Not transport unauthorized passengers (e.g., relatives, friends' hitchhikers, pets).*

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. WAC 292-110-010 Use of state resources, prior to April 1, 2016, states, in part:

.....
(2) The following are permitted uses:

(a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.

(b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.

(c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.

(d) A state officer or employee may make an occasional but limited personal use of state resources only if each of 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. Based on the stipulated facts above, Ms. Austin used state resources (vehicle) for a personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

4. 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 aggravating factors that these types of violations significantly reduce the public respect and confidence in state government employees and this occurred on two separate occasions.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Karina Austin 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. Karina Austin 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. Karina Austin 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. Karina Austin 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 Karina Austin 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. Karina Austin 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 Karina Austin 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 Karina Austin 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, Karina Austin 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, Karina Austin 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. Karina Austin agrees to pay a civil penalty in the amount of two-thousand dollars (\$2,000), with one-thousand dollars (\$1,000) suspended.

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.

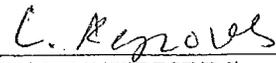
II. CERTIFICATION

I, Karina Austin, 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.



KARINA AUSTIN 6/22/17
Respondent Date

Presented by:



KATE REYNOLDS 8/15/17
Executive Director Date

III. 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 12th day of July 2017



Anna Dudek Ross, Chair



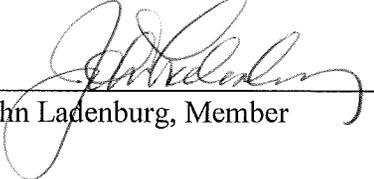
Samantha Simmons, Vice-Chair



Lisa Marsh, Member



Shirley Battan, Member



John Ladenburg, Member

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

Karina Austin, Respondent Date