

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

3 In the Matter of:

EEB Case No. 2016-075

4 [REDACTED],

FINAL ORDER

5 Respondent

6  
7  
8 **I. PROCEDURAL HISTORY**

9 On November 17 2017, the Executive Ethics Board (Board) found reasonable cause to  
10 believe that the Respondent, [REDACTED], violated the Ethics in Public Service  
11 Act while employed as the Training and Testing Coordinator at the Employment Security  
12 Department (ESD). Notice of the Reasonable Cause Determination and the right to request a  
13 hearing was served upon [REDACTED] by regular mail and certified mail on November 17, 2017.  
14 Board staff and [REDACTED] were unable to come to a settlement agreement and on August 29,  
15 2018 [REDACTED]'s case was transferred to AAG Chad Standifer to set the case for hearing.

16 The Office of Administrative Hearings (OAH) mailed proper notice to [REDACTED] on  
17 September 18, 2018, for a prehearing conference scheduled for Monday, October 1, 2018. The  
18 notice containing the following instructions:

19 **You must call in to the conference. If you fail to call in, the administrative**  
20 **law judge may hold you in default and dismiss your appeal. RCW**  
21 **34.05.440(2).**

22 As per the Notice of Prehearing Conference, Administrative Law Judge TJ Martin convened  
23 the prehearing conference on Monday, October 1, 2018 at 9:00 a.m. The Respondent, [REDACTED]  
24 [REDACTED], did not appear. At 9:15 a.m., when no one appeared on behalf of [REDACTED], the  
25 Executive Ethics Board Staff, represented by Chad Standifer, Assistant Attorney General,  
26 moved for a default order.

1 Administrative Law Judge TJ Martin granted the Board staff's motion for default for  
2 the Respondent [REDACTED] failure to appear for the prehearing conference, under RCW  
3 34.05.440(2). The written order confirms that verbal ruling.

4 On Friday October 5, 2018, OAH provided [REDACTED] with notice of the OAH's Order  
5 of Default by regular and certified mail.

6 Pursuant to RCW 34.05.440 (3), [REDACTED] had seven (7) days to request the Order of  
7 Default be vacated. [REDACTED] has not moved to vacate the order entered on October 5, 2018.

## 8 II. FINDINGS OF FACT

9 1. Employment Security Department (ESD) alleged that [REDACTED]  
10 may have violated the Ethics in Public Service Act when she accepted a post-state employment  
11 position with Monster Government Solutions, LLC (Monster). Monster was the contracted  
12 vendor providing software services for the new ESD WorkSource Integrated Technology  
13 System Project (WIT project) [REDACTED] worked under the contract providing training and  
14 support. The referral acknowledged that [REDACTED] was not involved with negotiations for the  
15 contract with Monster, but questioned whether she may have had any influence in the  
16 administration of the contract.

17 2. In December 2014, Monster signed a software license contract with ESD for the  
18 Integrated WorkSource Technology System (WIT). As the contracted vendor, Monster would  
19 provide and maintain a new technology system for ESD/WorkSource that would assist job  
20 seekers and employers with career and education counseling, training and job referral, job search  
21 assistance, and job development.

22 3. [REDACTED] had been employed by ESD since February 2008. In January 2015,  
23 she was hired in a non-permanent position as a Training and Testing Coordinator and was part  
24 of the ESD project team assigned to work with Monster on the WIT project.

1 4. Training of ESD staff prior to the “go-live” date for the WIT system began in  
2 early 2015. [REDACTED] Position Description Form (PDF) indicates that she was responsible for  
3 working with the contracted vendor staff, the ESD project team and key stakeholders to manage  
4 activities required to successfully execute staff user acceptance testing and train ESD staff to  
5 use and integrate the new technology/system to customers across the Workforce system.

6 Additional duties listed in her PDF included:

- 7 • Represent training needs across the project, including risks, issues, business processes  
8 and communication necessary to implement successful training.
- 9 • Work with the contracted vendor, responsible for all staff training deliverables  
10 including a Training Plan, materials, electronic tutorials, on line help and associated  
11 job sites.
- 12 • Coordinate training events for all staff and partners including user acceptance testers.  
13 Coordination includes logistics of the LMS registration process
- 14 • Work in partnership with contracted vendor staff, ESD project team and stakeholders  
15 to identify, monitor and report organizational readiness related to staff training.

16 5. [REDACTED] supervisor Jan Oswald (Ms. Oswald) told Board staff that as a  
17 member of the ESD project team, [REDACTED] coordinated the training program and training  
18 needs of ESD staff with Monster. Essentially acting as a conduit between ESD and Monster for  
19 training purposes.

20 6. Ms. Lindseth, the ESD Project Manager, told Board staff that [REDACTED] was  
21 front line staff on the project and as it developed, she was active in tracking the performance of  
22 the system. As the training lead, she needed to understand the Monster system well enough to  
23 explain the system to ESD employees.

24 7. Ms. Oswald said Monster had embedded employees working with the project  
25 team on the WIT project. In June 2016, shortly after the system went live, one of these embedded  
26 Monster employees quit resulting in the vacancy. Ms. Oswald said prior to applying for the  
position [REDACTED] discussed the position with her. Ms. Oswald said she did not see a potential  
ethics violation because [REDACTED] had nothing to do with negotiating the contract. She  
encouraged her to apply for the position.

1           8.       Ms. Lindseth told Board staff that [REDACTED] was a well-qualified and  
2 conscientious employee [REDACTED] sought guidance on the post-employment issue because  
3 she wanted to leave in good standing should she want to return to the agency.

4           9.       Ms. Lindseth said shortly before [REDACTED] left to take the position, she  
5 accompanied her to a meeting with Human Resources Director, Ron Marshall to discuss the  
6 issue. Ms. Lindseth said that Mr. Marshall advised that there could potentially be an issue given  
7 [REDACTED]'s participation in the contract. Ms. Lindseth believed that at the meeting, Mr.  
8 Marshall advised her that he would forward a referral to Executive Ethics Board for review. She  
9 recalled Mr. Marshall might have briefly talked about the potential for a civil penalty if a  
10 violation was found.

11          10.       Mr. Marshall told Board staff he discussed the Monster job with [REDACTED]  
12 prior to her leaving ESD. The issue was not that [REDACTED] had negotiated any part of the  
13 contract but that she worked extensively under it and would be fulfilling similar duties for  
14 Monster. He recalled the meeting was after she had already applied for the position, and shortly  
15 before she left to begin the job. He said he did not have time to seek advice on the situation  
16 from the Ethics Board prior to her leaving. He did advise her that he would make a referral to  
17 the Ethics Board.

18          11.       In her response to Board staff, [REDACTED] told Board staff that at no time did she  
19 have any role in the negotiation or administration of the contract with Monster. She, along with  
20 numerous other ESD employees, provided stakeholder input throughout the course of the project  
21 but she did not supervise, control, make discretionary decisions or otherwise control Monster in  
22 their performance of or any outcomes to the WIT contract.

23          12.       [REDACTED] confirmed that prior to applying for the vacant position she discussed  
24 it with the division leadership including both Ms. Oswald and Ms. Lindseth. She said both saw  
25

1 no post-state employment issues given her position as a Training Coordinator and both  
2 encouraged her to apply.

3 13. On October 4, [REDACTED] sent the following email to the project team:

4 *“Good afternoon team. I send you this email as notification that I am resigning from*  
5 *the Employment Security Department to accept a position with Monster Government*  
6 *Solutions. I will continue to work on the Worksource Integrated Technology project in*  
7 *a different capacity. My workstation will be the Maple Park location. My last official*  
8 *day of work with ESD will be October 14<sup>th</sup>, but I will be out of the office on annual leave*  
9 *the 13<sup>th</sup> and 14<sup>th</sup>. I am working on a transition plan with our division’s leadership. I will*  
10 *still be very involved with the Training 12s, the ETO Support Center, Refresher*  
11 *trainings, Weekly All User WebEx, RESEA conversations, etc.”*

### 12 III. CONCLUSIONS OF LAW

13 1. The Board has jurisdiction to hear this matter pursuant to RCW 42.52.360(1),  
14 which authorizes the Board to enforce the Ethics in Public Service Act, chapter 42.52 RCW,  
15 with respect to employees in the executive branch of state government. The Board has  
16 jurisdiction over [REDACTED], whose actions occurred while he was a state employee.

17 2. RCW 42.52.080(5) – Employment after public service states, in pertinent part:

18 No former state officer or state employee may at any time subsequent to his or her  
19 state employment assist another person, whether or not for compensation, in any  
20 transaction involving the state in which the former state officer or state employee at  
21 any time participated during state employment. This subsection shall not be  
22 construed to prohibit any state employee or officer of a state employee organization  
23 from rendering assistance to state officers or state employees in the course of  
24 employee organization business.

25 RCW 42.52.010(13) defines “participate” as:

26 Participate means to participate in state action or a proceeding personally and  
substantially as a state officer or state employee, through approval, disapproval,  
decision, recommendation the rendering of advice, investigation, or otherwise but  
does not include preparation, consideration or enactment of legislation or the  
performance of legislative duties.

1 [REDACTED], as the Training and Testing Coordinator, participated in the contract with Monster  
2 as a state employee and took post state employment position with Monster working under the  
3 same contract in violation of RCW 42.52.080.

4 **IV. FINAL ORDER**

5 1. Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby  
6 ordered that [REDACTED] is assessed a total monetary civil penalty of two thousand dollars  
7 (\$2,000) based on her violations of RCW 42.52.080(5).

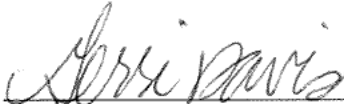
8 2. The total amount of two thousand dollars (\$2, 000) is payable in full within 90  
9 days of the effective date of this order.

10 DATED this 9<sup>th</sup> day of November 2018.

11  
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14 \_\_\_\_\_  
15 John Ladenburg, Chair

13 Absent  
14 \_\_\_\_\_  
15 Lisa Marsh, Member

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16   
17 \_\_\_\_\_  
18 Shirley Battan, Vice-Chair

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17 \_\_\_\_\_  
18 Gerri Davis, Member

18 Absent  
19 \_\_\_\_\_  
20 Anna Dudek Ross, Member

1 **APPEAL RIGHTS**

2 **RECONSIDERATION OF FINAL ORDER – BOARD**

3 Any party may ask the Executive Ethics Board to reconsider a Final Order. The request  
4 must be in writing and must include the specific grounds or reasons for the request. The request  
5 must be delivered to Board office within 10 days after the postmark date of this order.

6 The Board is deemed to have denied the request for reconsideration if, within 20 days  
7 from the date the request is filed, the Board does not either dispose of the petition or serve the  
8 parties with written notice specifying the date by which it will act on the petition.  
9 RCW 34.05.470.

10 The Respondent is not required to ask the Board to reconsider the Final Order before  
11 seeking judicial review by a superior court. RCW 34.05.470.

12 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

13 A Final Order issued by the Executive Ethics Board is subject to judicial review under  
14 the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures  
15 are provided in RCW 34.05.510 - .598.

16 The petition for judicial review must be filed with the superior court and served on the  
17 Board and any other parties within 30 days of the date that the Board serves this Final Order on  
18 the parties. RCW 34.05.542(2). Service is defined in RCW 34.05.542(4) as the date of mailing  
19 or personal service.

20 A petition for review must set forth:

- 21 (1) The name and mailing address of the petitioner;  
22 (2) The name and mailing address of the petitioner’s attorney, if any;  
23 (3) The name and mailing address of the agency whose action is at issue;

1 (4) Identification of the agency action at issue, together with a duplicate copy, summary,  
2 or brief description of the agency action;

3 (5) Identification of persons who were parties in any adjudicative proceedings that led to  
4 the agency action;

5 (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;

6 (7) The petitioner's reasons for believing that relief should be granted; and

7 (8) A request for relief, specifying the type and extent of relief requested.  
8 RCW 34.05.545.

9 **ENFORCEMENT OF FINAL ORDERS**

10 If there is no timely request for reconsideration, this is the Final Order of the Board. The  
11 Respondent is legally obligated to pay any penalty assessed.

12 The Board will seek to enforce a Final Order in superior court and recover legal costs  
13 and attorney's fees if the penalty remains unpaid and no petition for judicial review has been  
14 timely filed under chapter 34.05 RCW. This action will be taken without further order by the  
15 Board.