

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

██████████

Respondent.

No. 2017-075

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 December 5, 2017, the Executive Ethics Board (Board) received a complaint, referred by the Department of Social and Health Service (DSHS), that alleged ██████████ a Social Service Specialist 3 with DSHS, used a state vehicle for her personal benefit and gain.
2. On September 1, 2017, ██████████ asked a coworker to accompany her in a field interview for safety reasons.
3. The coworker told the internal investigator that they left the Tumwater office at about 9:00 am. The client was not available for interview. ██████████ decided to contact a second client in the Yelm area and asked the coworker to attend. The coworker agreed.

4. The coworker told the DSHS investigator that [REDACTED] needed to purchase socks prior to attending the second interview. The coworker further stated that [REDACTED] drove the state vehicle to the Hawks Prairie Walmart. The coworker stayed in the vehicle while [REDACTED] went into the store. The coworker stated that she was in the store for approximately 20 minutes.

5. The coworker told the DSHS investigator that when [REDACTED] returned to the vehicle she had socks and other clothing items.

6. [REDACTED] indicated in her response to Board staff that would normally be dressed appropriately for the home visits but that on this case the client's case manager called her to inform her that there were concerns that the client's home condition had worsened as she had rotten floors, roof damage, needles that were not being disposed of correctly. [REDACTED] further indicated that she would normally keep an extra pair of shoes at her office for just this type of home visit but that she had used them two days before and they were not available.

7. The coworker told the DSHS investigator that [REDACTED] changed her shoes and then told her that she needed to stop by her daughter's soccer practice to tell the daughter about a change in plans after practice.

8. The coworker told the DSHS investigator that [REDACTED] drove to River Ridge High School in Lacey. The coworker further stated that [REDACTED] parked in the school parking lot and went to find her daughter. The coworker stayed in the vehicle.

9. The coworker told the DSHS investigator that when [REDACTED] returned her daughter was with her and [REDACTED] told her that she was going to take the daughter to her grandparents' home.

10. The coworker told the DSHS investigator that the daughter got into the back seat of the state vehicle and that [REDACTED] drove her daughter to a home off Mullen Road near Hwy 510.

11. The coworker told the DSHS investigator that after the daughter was dropped off, they continued to Yelm. They were not able to meet with the client and returned to the Tumwater office by approximately 12:30 pm.

12. Cassandra Tabery (Ms. Tabery), [REDACTED] supervisor, indicated in a response to Board staff that a DSHS employee contacted her and indicated they were asked by [REDACTED] to go out on a field visit with her. The employee told her that they ended up stopping at Walmart for about 20 minutes. Afterwards, they drove to the school of [REDACTED]'s daughter, where they picked her up and drove her to a family member's home.

13. On November 9, 2017, the DSHS investigator met with [REDACTED]. At first, [REDACTED]. [REDACTED] was not able to recall her activities on September 1, 2017. The DSHS investigator summarized the day according to the coworkers statement.

14. [REDACTED] first told the DSHS investigator that she did not recall if she went to Walmart. The DSHS investigator then asked her how long she was in Walmart and [REDACTED] responded, "Not very long, I don't really recall that long."

15. [REDACTED] indicated in her response to Board staff that she had received a call from her daughter indicating that she was sick. Her mindset was on getting her daughter home and now realizes that it was "unusual poor judgment on her part to allow her daughter to be transported in a state vehicle. The trip lasted no longer than five minutes.

16. In December 2017, [REDACTED] received a written reprimand for violations of DSHS ethics policies for misusing state resources.

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] secured special privileges in violation of RCW42.52.070.

3. 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.

4. Based on the stipulated facts above, [REDACTED] used state resources for a personal benefit in violation of RCW 42.52.160.

5. 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.

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 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 two thousand, five hundred dollars (\$2,500) associated with the improper use of public resources, RCW 42.52.160. The Board agrees to suspend one-thousand, two-hundred and fifty dollars (\$1,250) 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 non-suspended portion of the civil penalty in the amount of one-thousand, two-hundred and fifty dollars (\$1,250) 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]

1/5/2019
Date

Respondent

Presented by:

K Reynolds
KATE REYNOLDS
Executive Director

1/23/19
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):

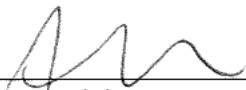
DATED this 8th day of March, 2019




John Ladenburg, Sr, Chair




Shirley Battan, Vice-Chair



Anna Dudek Ross, Member



Lisa Marsh, Member



Geri Davis, Member

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

 , Respondent Date