

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

3 In the Matter of:

EEB Case No. 2018-018

4 [REDACTED]

FINAL ORDER

5 Respondent

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8 **I. PROCEDURAL HISTORY**

9 On November 9, 2018, the Executive Ethics Board (Board) found reasonable cause to
10 believe that the Respondent, [REDACTED] violated the Ethics in Public Service Act
11 while employed as a Secretary Supervisor, at Western State Hospital, Department of Social and
12 Health Services (DSHS). Notice of the Reasonable Cause Determination and the right to request
13 a hearing was served upon [REDACTED] by regular mail and certified mail on November 13, 2018.
14 [REDACTED] failed to respond to the Reasonable Cause Determination within 30 days as required
15 by WAC 292-100-060(2).

16 The Board entered an Order of Default on May 10, 2019. On May 13, 2019, Board staff
17 provided [REDACTED] with notice of the Board's Order of Default by regular and certified mail.

18 Pursuant to WAC 292-100-060(4) [REDACTED] was allowed 10 days to request
19 vacation of the Order of Default. [REDACTED] has not moved to vacate the order entered on May
20 10, 2019.

21 **II. FINDINGS OF FACT**

22 1. On March 30, 2018, the Executive Ethics Board (Board) initiated an investigation
23 following a Whistleblower report received from the State Auditor's Office (SAO) alleging that
24 [REDACTED], former Secretary Supervisor at Western State Hospital (WSH),
25 Department of Social and Health Services (DSHS), may have violated the Ethics in Public

1 Service Act. The allegation was she using state computer resources for her private benefit and
2 gain.

3 2. [REDACTED] has worked for DSHS since February 24, 2004. She was promoted to
4 Secretary Supervisor on May 17, 2010, and was in that position for all times pertinent to this
5 investigation.

6 3. On February 25, 2014, [REDACTED] received a four-day suspension from her agency
7 for inappropriate personal use of the DSHS computer system. At that time, [REDACTED]
8 acknowledged reviewing DSHS Administrative Policy 15.15 – Use of Electronic Messaging
9 Systems and the Internet.

10 4. Darla Dawson (Ms. Dawson), [REDACTED] supervisor during times pertinent to
11 this investigation, indicated in her response to Board staff that on or about July 17, 2017, during
12 work force development training she informed her staff, including [REDACTED], that using the
13 internet for personal reasons was inappropriate.

14 5. Ms. Dawson indicated in her response to Board staff that [REDACTED] had worked
15 for the state for many years, was aware of DSHS policies, and that [REDACTED] was recently
16 reminded of the DSHS policies on using state resources for personal benefit during training but
17 chose to continue using the internet for her personal benefit.

18 6. On July 26, 2017, The SAO received an anonymous complaint regarding [REDACTED]
19 [REDACTED] personal use of the internet, specifically her use of Facebook. The Whistleblower
20 complaint indicated that about one week after Ms. Dawson had advised her staff about the
21 inappropriate use of the internet, [REDACTED] had been seen several times by her coworkers using
22 her state computer to access Facebook.

23 7. The SAO obtained a copy of [REDACTED] work computer hard drive for analysis
24 of her personal use. SAO investigators reviewed [REDACTED] internet history for the period of
25 June 7 through September 25, 2017, covering 60 workdays. During that review, SAO

1 investigators found that most of [REDACTED] browsing was on Facebook. Because the browser
2 does not record activity when a user scrolls their Facebook feed, the SAO could not determine
3 the amount of time she spent on Facebook, however, they were able to determine that [REDACTED]
4 visited Facebook frequently. The SAO report indicated that [REDACTED] accessed Facebook more
5 than 4,000 times and went to her personal Facebook profile 998 time for an average of 16 times
6 per day.

7 8. The SAO investigation revealed that in addition to Facebook, [REDACTED] visited
8 other non-worked related websites such as Craigslist and Zillow, among others.

9 9. [REDACTED] told the SAO investigators that she would access Facebook and leave
10 it open during the course of the day to communicate with her family members because there was
11 no cell phone service at WSH.

12 10. [REDACTED] told SAO investigators that she used her work computer to search for
13 apartments because many of the property management companies have the same business hours
14 as she did.

15 11. On October 18, 2018, Board staff obtained a copy (forensic image) of [REDACTED]
16 work computer hard drive from DSHS.

17 12. Board staff used Magnet Forensics' Axiom software to analyze the image of [REDACTED].
18 [REDACTED] hard drive for internet use, emails, and any documents related to the investigation.

19 13. Board staff's examination of [REDACTED] internet activity confirmed the SAO's
20 determination that [REDACTED] frequently visited Facebook and visited other sites, like Craigslist
21 and Zillow.

22 14. On May 10, 2018, [REDACTED] was terminated from her employment with WSH
23 and DSHS.

1 **III. CONCLUSIONS OF LAW**

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

6 2. RCW 42.52.160(1) – Use of persons, money, or property for private gain, in
7 pertinent part:

8 No state officer or state employee may employ or use any person, money, or
9 property under the officer’s or employee’s official control or direction, or in his or
10 her official custody, for the private benefit or gain of the officer, employee, or
11 another.

12 WAC 292-110-010 Use of state resources, states in part:

13 **(3) Permitted personal use of state resources.** This subsection applies to any
14 use of state resources not included in subsection (2) of this section.

15 (a) A state officer or employee's use of state resources is de minimis
16 only if each of the following conditions are met:

- 17 (i) There is little or no cost to the state;
- 18 (ii) Any use is brief;
- 19 (iii) Any use occurs infrequently;
- 20 (iv) The use does not interfere with the performance of any state
21 officer’s or employee’s official duties;
- 22 (v) The use does not compromise the security or integrity of state
23 property, information systems, or software;
- 24 (vi) The use is not for the purpose of conducting an outside
25 business, in furtherance of private employment, or to realize a
26 private financial gain; and
- (vii) The use is not for supporting, promoting the interests of, or
soliciting for an outside organization or group.

20 [REDACTED] as a Secretary Supervisor at Western State Hospital, used state resources for her
21 private benefit or gain in violation of RCW 42.52.160. [REDACTED] activities do not meet the
22 exceptions for the use of state resources as permitted in WAC 292-110-010.
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IV. FINAL ORDER

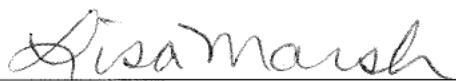
1. Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ordered that [REDACTED] is assessed a total monetary civil penalty of three thousand dollars (\$3,000) based on her violations of RCW 42.52.160).

2. The total amount of three thousand dollars (\$3,000) is payable in full within 90 days of the effective date of this order.

DATED this 12th day of July 2019.



Shirley Battan, Chair



Lisa Marsh, Member



Gerri Davis, Vice-Chair



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.