

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Toni Snowden

Respondent.

No. 2019-008

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Toni Snowden, 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 March 1, 2019, the Board received a complaint alleging that Toni Snowden (Ms. Snowden), Program Coordinator for Colleges of the Sciences (COTS) at Central Washington University (CWU), may have violated the Ethics in Public Service Act by using state resources for private benefit or gain.
2. Ms. Snowden was hired in June 2016 at CWU as Office Assistant for the Paramedicine Program/Health Science Department under Dr. Keith Monosky (Mr. Monosky). She was promoted to Program Coordinator for COTS in September 2017, which is the position she presently holds. Ms. Snowden's work hours are 8 am to 5 pm Monday through Friday.

3. According to the complainant, a Facebook (FB) group called CWU Parents exists for CWU parents to share information and provide resources for each other. In order to join the group an individual must have a child attending CWU. CWU faculty and staff are given access to the page so that they can answer questions and provide resources. The only way to join the group is to be a parent or a CWU faculty/staff member. The complaint alleges that on multiple occasions, Ms. Snowden, who has access to the page because she is a CWU staff person, has promoted her company Toni's Sweet Treats and has benefited financially.¹

4. Board staff conducted a review of Ms. Snowden's Outlook emails and found emails that appeared to be non-work related.

5. There were three emails between Ms. Snowden's CWU email address and the CWU email of Victoria Capell (Ms. Capell). The email correspondence occurred between January 18, 2019 and January 21, 2019, and had an attached Excel spreadsheet listing sales of Toni's Treats. The spreadsheet included the name of the person purchasing the item, payment amount and the "Cake Description." In a written response to Board staff, Ms. Snowden said she was struggling to figure out an Excel spreadsheet for her business. One of her past students, Ms. Capel, said she would create an Excel spreadsheet for her. Ms. Snowden said she had given her access to her personal Google Docs page and instead of uploading it there, Ms. Capell sent it to her via her CWU student email account. Ms. Snowden said she downloaded it to a thumb drive and does not recall doing anything else with it.

6. One email dated February 19, 2019, sent from Ms. Snowden's personal cell phone to her CWU email address containing an attached document titled "Manage Payments." The attachment listed personal checking information including payment of a Yakima Valley Memorial Hospital bill.

¹ The complainant provided screen shots of students accepting cakes from Toni's treats and Toni's treats being promoted on the CWU Parent website.

7. Two emails dated December 18, 2018, between Ms. Snowden at her CWU email address and Lynne Gainey (Ms. Gainey) at a Yahoo email address with the subject line, "Birthday cake." The email was details about the purchase of a birthday cake for Ms. Gainey's son.

8. Approximately 28 emails between October 15, 2018 and February 19, 2019, sent from Ms. Snowden's personal cell phone to her CWU email address. The emails contained attachments of pictures of various cakes and pictures with what appears to be students receiving cakes. When asked by Board staff why she was sending pictures from her business to her work email, Ms. Snowden stated that she sent pictures to her CWU account because her MSN account would not accept them. Ms. Snowden said she would transfer them from her work email to a thumb drive because it was easier. She said she never downloaded any pictures from her work computer to her FB page.

9. Two emails between Ms. Snowden's CWU email address and the CWU email address of CWU employee, Elvin Delgado (Mr. Delgado) on October 22, 2018. The emails were regarding Mr. Delgado needing a cake and Ms. Snowden providing him with the website link for Toni's Treats. In a written response to Board staff, Ms. Snowden said that Mr. Delgado was one of her professors for the YESS² program and he had heard that she had a business outside of CWU. He has two daughters and asked her about cakes for them and requested she send him more information. She confirmed she sent him a link to her business in an email from her CWU email address.

10. Board staff also conducted a computer forensics scan of Ms. Snowden's hard drive and found non-work related internet activity.

11. Ms. Snowden accessed her personal FB website, "ToniSweetTreats" at least once on approximately 48 different days between December 4, 2018 and February 28, 2019. In a written response

² Yearlong Exploration of Social Sciences.

to Board staff, Ms. Snowden stated that around December 2018 she began logging into her URL on FB so she could bring up FB messenger for her husband to contact her while at work. She said it was not to navigate on her personal page. She said it would sit open while she was at her desk all day. She said most days she never even closed the web browser until the next morning and then reopened it for the same reason. She said her husband has medical issues and had taken a turn for the worse. She said he would lay in bed with his computer and the only way he could reach her was via FB messenger. Ms. Snowden said she does not get cell service in her office and her husband does not have the cognitive ability to search in his phone for her number to place a call. She said she has opened tickets with CWU about not having cell service and internet service at her office several times. She said her smart phone cannot connect to FB or cell service due to this issue and she needed to know her husband was okay. Ms. Snowden said she has FMLA but could not take the time to run home to see if he was okay. She said she was not aware she could not have FB open on her computer to chat with her husband.

12. Ms. Snowden accessed websites such as “waggintailswa.com/training” regarding dog training and supplies at least once on approximately 17 different days between December 13, 2018 and March 4, 2019. Ms. Snowden confirmed with Board staff that at that time they were getting a new puppy and she was doing research about that new puppy.

13. Ms. Snowden accessed the CWU Parents Chat Café at least once on approximately 36 different days between December 5, 2018 and March 1, 2019. In a written response to Board staff, Ms. Snowden stated that parents would post questions on the CWU Parents Chat Café with questions about their student at CWU. She said she has responded to parents asking questions. She said some examples of those interactions would be one parent posting a question about where she could help her daughter get some mental health counseling, there were questions about grades, CWU Orientation Administration and other pertinent questions about her own students on campus. She said that the Administration at CWU

post their programs on campus topics for all students to know. Ms. Snowden said her son also attends CWU so he might tell her about an event and she would look at the page to get more information.

14. According to Ms. Snowden, she has asked other employees in her building just to make sure she was doing things correctly and was told that as long as it was on her own time she was okay. Ms. Snowden said she thought that when she was on her own time she could utilize the internet on her CWU computer since she doesn't have any email, internet or cell phone service while in her office. It wasn't until she went to the ethics training in early February 2019 and asked questions that she realized she wasn't allowed on her own time to visit the internet or other website via her CWU computer.

15. In a written response to Board staff, CWU Human Resources (HR) Executive Director and Equal Opportunity Manager,³ Staci Sleigh-Layman (Ms. Sleigh-Layman), stated that she has not conducted an internal investigation into this situation. She said Ms. Snowden attended in-person general ethics training that she conducted on February 8, 2019. According to Ms. Sleigh-Layman, Ms. Snowden talked with her afterwards about her use of the CWU Parents FB account and told her that she had cleared her involvement with the page administrators and had discussed her business with her supervisor. Ms. Sleigh-Layman said the FB page, named CWU Parents, is run by parents. It is not an official site of CWU.

16. In a letter from Darla Sautter (Ms. Sautter), Senior Administrator for the FB group "CWU Parents," she states that for the first seven months that Ms. Snowden was part of the CWU Parents group, her name never came up in relation to cakes/treats. Once it did, she only answered questions from parents when they asked specifically about the delivery of a baked good to their student at CWU. She did not make references to her business on the FB page in unrelated posts

³ Ms. Sleigh-Layman is also the Ethics Advisor for CWU.

trying to drum up business. Ms. Snowden did not make an original advertisement-type post about her business on the group's feed until one full year after joining the group, even though she had the complete freedom to do so per the group's advertising policy and Ms. Sautter's personal encouragement.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or property under the officers or employees official control or direction, or in his or her official custody, for the private benefit or gain of the officer, employee or another.

WAC 292-110-010 Use of state resources, after April 2016, states, in part:

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

- (a) A state officer or employee's use of state resources is de minimis 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 state officer's or employee's official duties;
 - (v) The use does not compromise the security or integrity of state property, information systems, or software;
 - (vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and
 - (vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.

2. Based on the evidence reviewed, Ms. Snowden used state resources for personal benefit in violation of RCW 42.52.160. Ms. Snowden's activities do not meet the exceptions for the use of state resources as permitted in WAC 292-110-010.

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 and they were continuous in nature.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Toni Snowden 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. Toni Snowden 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. Toni Snowden 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. Toni Snowden 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 Toni Snowden 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. Toni Snowden 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 Toni Snowden 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 Toni Snowden 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 Toni Snowden 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, Toni Snowden 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, Toni Snowden 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. Toni Snowden agrees to pay a civil penalty in the amount of two thousand five hundred dollars (\$2,500) associated with violations of RCW 42.52. The Board agrees to suspend one thousand dollars (\$1,000) on the condition that Toni Snowden 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 civil penalty in the amount of one thousand five hundred dollars (\$1,500) 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, Toni Snowden, 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.

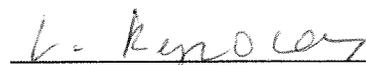


TONI SNOWDEN
Respondent

11/12/2019

Date

Presented by:



KATE REYNOLDS
Executive Director

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 10th day of January, 2020.

Shirley Battan
Shirley Battan, Chair

Absent
Gerri Davis, Vice Chair

Lisa Marsh
Lisa Marsh, Member

Absent
Anna Dudek-Ross, Member

Jan M Jutte
Jan Jutte, Member

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

Toni Snowden, Respondent Date