

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Glenn Jackson

Respondent.

No. 2019-024

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, GLENN JACKSON, 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 July 16, 2019, the Board received a complaint referred by the State Auditor's Office (SAO) alleging that Glenn Jackson (Mr. Jackson), Director of High School Initiatives at Bellevue College (BC), may have violated the Ethics in Public Service Act by using state resources for his private benefit and gain and receiving additional compensation for conducting his official duties.

2. On November 29, 2017, a BC HR Consultant informed the President's Office of concerns they had regarding how payments were being made for extra-duty assignments (moonlighting) by exempt and classified staff members. Due the concerns raised to the President, Gerald Weber (Mr. Weber), a

taskforce was created to develop procedures that would proactively align with the college and state ethics laws.

3. After reviewing the current practices, the taskforce offered recommendations to ensure the integrity and fairness of assignments and to eliminate conflicts or potential conflicts between teaching and regular assigned duties and workload. The taskforce recommendations and procedures underwent an all-college review from March 1, 2018 to April 23, 2018, and were subsequently approved by President Weber on April 24, 2018.

4. On January 30, 2018, the SAO Whistleblower program received a complaint asserting that some administrative staff were inappropriately receiving supplemental pay, “double-dipping” related to teaching classes to BC students during the same period as their administrative duties.

5. The SAO’s investigation covered the period of January 2017 through January 2018 and was released on May 6, 2019. The report indicated that there was reasonable cause to believe improper governmental actions occurred. The SAO report found that there was no clear, distinguishable line between Mr. Jackson’s administrative position and the contract work for the college in which he was paid additional compensation. In addition, the SAO investigation found that Mr. Jackson used his assigned desk and laptop computers for his personal benefit and gain.

6. Mr. Jackson was hired as the Director of High School Initiatives at BC in 2013 and was in that position for all times pertinent to this investigation

7. The Director of High School Initiatives reports to the Dean of Student Successes and is responsible for providing leadership, development and administrative oversight for Running Start, the Career Education Options Programs (CEO) and any future new initiatives developed with area high schools and school districts. As the Director of High School Initiatives, Mr. Jackson is required to oversee the hiring and development of part-time faculty in the CEO program.

8. The Director of High School Initiatives is an overtime exempt position and is not represented by a bargaining unit. Mr. Jackson is allowed to set his own schedule with the expectation that he would be available to students and community members during college business hours as long as he works a minimum of 40 hours per week. The official hours of operation for all college activities are 6:30 am to midnight, Monday through Thursday and 6:30 am through 10:30 pm on Friday.

9. In addition to Mr. Jackson's duties as the Director of High School Initiatives, he taught classes at BC for additional compensation. In the winter and spring quarters of 2017, January 3 to June 16, 2017, Mr. Jackson's work schedule was 7:00 am to 4:00 pm Monday through Friday with a one hour lunch period. On Mondays, Mr. Jackson would take his lunch period from 9:30 to 10:30 am.

10. Mr. Jackson taught three CEO classes for addition compensation during this period, CEO-104, 4:30 to 5:20 pm Tuesday, CEO-102, 9:30 to 10:20 am Monday and Wednesday, and CEO-102, 4:30 to 5:20 pm Monday and Wednesday. Mr. Jackson co-taught this course with one of his direct reports, Lori Smith-Berry (Ms. Smith-Berry). Ms. Smith-Berry taught the Wednesday class.

11. Mr. Jackson indicated in a response to Board staff that as the Director of High School Initiatives he was responsible for the hiring and administration of the part-time faculty that taught the CEO classes.

12. Mr. Jackson indicated that during this time there was no procedure for hiring the part-time faculty. He indicated that he would ask the deans of other departments if they knew of any adjunct professors interested in teaching the CEO course. He further indicated that if there was an overflow of students he would use members of his staff to fill in for additional pay.

13. During the 2017 winter and spring quarters, Mr. Jackson taught six CEO classes, three in the winter and three in the spring, earning a total of \$15,268.34. In addition, Mr. Jackson taught HD 140 – U.S. Race Relations, a three-day course, on two occasions during the winter and spring quarters;

February 24 thru February 26, 2017 and May 12 thru May 14, 2017. For this, Mr. Jackson earned \$3,398.60.

14. Board staff's review of the BC Canvas site accessed by Mr. Jackson, obtained from the BC server, indicated that he accessed Canvas during his official workday (as identified in #9 above) on 49 days; eight days in January, six days in February, seven days in March, eight days in April, 13 days in May and seven days in June.

15. Board staff's examination of Mr. Jackson's desktop computer for the period identified above, showed that Mr. Jackson was using his desktop computer in his office to access the Canvas site to post/download information and respond to his students from January 3 through March 19, 2017. Board staff's examination of Mr. Jackson's laptop computer found no evidence of Canvas access during Mr. Jackson's work hours. Mr. Jackson did access Canvas from his laptop computer on May 7, 2017, at 7:58 pm.

16. Mr. Jackson's work schedule for the fall 2017 quarter, September 18 to December 7, 2017, was 7:00 am to 4:00 pm, Monday through Friday with an hour lunch. On Mondays, his lunch was from 9:30 to 10:30 am, which allowed him to teach a CEO 102 class. On Tuesday and Thursdays, he would take his lunch break from 1:30 to 2:30 pm, which would allow him to teach a CEO 102 class. During this period, Mr. Jackson taught four CEO classes, two during his regular shift and two after hours, earning a total of \$9,320.79. In addition, Mr. Jackson taught HD 140 – U.S. Race Relations, a three-day course on November 17 thru November 19, 2017. For this, Mr. Jackson earned \$1,699.30.

17. Mr. Jackson's work schedule for the fall 2017 quarter, September 18 to December 7, 2017, was 7:00 am to 4:00 pm, Monday through Friday with an hour lunch. On Mondays, his lunch was from 9:30 to 10:30 am, which allowed him to teach a CEO 102 class. On Tuesday and Thursdays, he would take his lunch break from 1:30 to 2:30 pm, which would allow him to teach a CEO 102 class. During this

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18. On October 10, 2017, Kathleen Hathaway, Dean of Student Success at BC, sent an email to Beverly Tonda, BC HR, with CC to Mr. Jackson and Steve Martel. The email stated in part that, “*Glenn [Mr. Jackson] and Steven [Mr. Martel] met with me yesterday to work on a process for employees teaching pt. time during their scheduled work hours in the winter quarter. They will be talking to each person individually to let them know that any pt. time instruction has to be done after their regularly scheduled hours and will make any changes needed to the course instructors.*”

19. Mr. Jackson indicated in a response that at the time of the November email, Ms. Hathaway was not sure and had to double check the policy. It was not until the 2018 winter quarter had already started when he was told by Ms. Hathaway that she did not want anyone in her group teaching during the day but they could teach after hours.

20. BC Policy – 4250P – Extra-duty Teaching Assignments for Classified and Exempt Employees became effective on 4/4/18.

21. In addition to the above information, the SAO investigation found that Mr. Jackson used state computer resources for his personal benefit and gain. The SAO investigation found that for the period of February 2 through May 8, 2017, Mr. Jackson used his state issued desktop computer to access the internet for 735 minutes of non-work related activity. Of those 735 minutes, 172 minutes were used to access internet sites related to personal educational course from Capella University.

22. The SAO’s examination of Mr. Jackson’s state issued laptop computer revealed that for the period of May 27, 2017 through January 3, 2018, Mr. Jackson used his state issued laptop on approximately 53 days and predominantly for his personal benefit.

23. Board staff's examination of Mr. Jackson's state issued desktop and laptop computers showed the following data related to his personal use related to his Capella University course work. See details below:

Capella University

Chrome web visits days/month – 12/22/16 through 7/2/18, 44 visits in 43 days.

Internet Explorer/Edge – 1/12/17 through 8/15/18, 58 visits in 58 days.

Chrome Downloads 10/12/15 through 6/12/18 – 305.

Outlook emails – 3/23/16 through 9/6/19 – 239

Word documents – 2/24/15 through 11/25/17 – 58

PDF documents – 10/12/15 through 4/12/17 - 17

24. Mr. Jackson indicated in his response to Board staff that he acknowledged the use of state resources in his pursuit of his education. He further indicated that he believed in pursuing a Master's degree in Educational Leadership the college was also benefiting. The course covered finance, human resources, operations, change management, and more all of which would benefit the college in his position as the Director of High School Initiatives.

25. Mr. Jackson indicated in a response to Board staff that he would use the knowledge acquired from the course in his everyday job responsibilities. Mr. Jackson indicated that the course work helped in the design of a new program that was started two years ago and has provided him with the tools and knowledge that is required for his position, which he uses to benefit the college.

26. In addition to the personal use for Mr. Jackson's course work for Capella University, Board staff found the following personal internet activity:

Scott Trade – 1/3/17 through 3/22/17 – 52 visits on 31 different days.

Bank of America – 2/1/17 through 8/16/17 – 19 visits on 16 different days.

Yahoo Finance/News– 1/6/17 through 8/16/17 – 17 visits on 17 different days.

27. On June 20, 2019, Mr. Jackson received a letter of reprimand from BC as a result of the SAO investigation which indicated that he violated state ethics laws when he used state resources in support of his outside business and that he used state resources for his personal benefit and gain in support of his personal education course work related to Capella University.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from receiving outside compensation for conducting an official duty. RCW 42.52.110 - Compensation for official duties or nonperformance states:

No state officer or state employee may, directly or indirectly, ask for or give or receive or agree to receive any compensation, gift, reward, or gratuity from a source for performing or omitting or deferring the performance of any official duty, unless otherwise authorized by law except: (1) The state of Washington; or (2) in the case of officers or employees of institutions of higher education or of the *Spokane intercollegiate research and technology institute, a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit corporation organized for the benefit and support of the state employee's agency or other state agencies pursuant to an agreement with the state employee's agency.

2. 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.

3. Based on the stipulated facts above, Mr. Jackson used state resources for a personal benefit in violation of RCW 42.52.160.

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 an aggravating factor these types of violations significantly reduce the public respect and confidence in state government employees and they were continuous in nature. In the matter at hand, it is a mitigating factor that at the time of Mr. Jackson's violation his actions were allowed by the common practice and acceptance of the College. It is also a mitigating that Mr. Jackson received a letter of reprimand for his violations of college policy related to the state ethics laws.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Glenn Jackson 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. Glenn Jackson 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. Glenn Jackson further agrees that the evidence available to the Board is such that the Board may conclude he 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. Glenn Jackson 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 Glenn Jackson 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. Glenn Jackson 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 Glenn Jackson 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 Glenn Jackson 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 Glenn Jackson 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, Glenn Jackson 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, Glenn Jackson 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. Glenn Jackson agrees to pay a civil penalty in the amount of one-thousand, seven-hundred and fifty dollars (\$1,750) associated with violations of, RCW 42.52. The Board agrees to suspend five-hundred dollars (\$500.00) on the condition that Glenn Jackson 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 two-hundred and fifty dollars (\$1,250.00) 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, Glenn Jackson, 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.

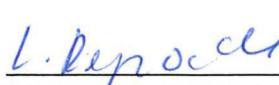


GLENN JACKSON
Respondent

8/18/20

Date

Presented by:



KATE REYNOLDS
Executive Director

9/11/2020

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 13th day of March, 2020

Approved via Video Meeting
Shirley Battan, Chair

Approved
Gerri Davis, Vice-Chair

Approved via Video Meeting
Lisa Marsh, Member

Approved via Video Meeting
Anna Dudek Ross, Member

Approved via Video Meeting
Jan Jutte, Member

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

Glenn Jackson, Respondent

Date