

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

3 In the Matter of:

EEB Case No. 2019-032

4 Deborah Wentworth,

FINAL ORDER

5 Respondent
6

7
8 **I. PROCEDURAL HISTORY**

9 On January 10, 2020, the Executive Ethics Board (Board) found reasonable cause to
10 believe that the Respondent, Deborah Wentworth (Ms. Wentworth) violated the Ethics in
11 Public Service Act while employed as a Psychologist 4 with the Department of Corrections
12 (DOC). Notice of the Reasonable Cause Determination and the right to request a hearing was
13 served upon Ms. Wentworth by regular mail and certified mail on January 13, 2020. Ms.
14 Wentworth failed to respond to the Reasonable Cause Determination within 30 days as
15 required by WAC 292-100-060(2).

16 The Board entered an Order of Default on September 11, 2020. On September 14,
17 2020, Board staff provided Ms. Wentworth with notice of the Board's Order of Default by
18 regular and certified mail.

19 Pursuant to WAC 292-100-060(4) Ms. Wentworth was allowed 10 days to request
20 vacation of the Order of Default. Ms. Wentworth has not moved to vacate the order entered on
21 September 11, 2020.

22 **II. FINDINGS OF FACT**

23 1. Ms. Wentworth was hired by DOC as a Psychologist 4 on January 7, 2008
24 which is the position she held at DOC Headquarters (HQ) in Tumwater, Washington at the
25 time of the allegation. According to DOC, Ms. Wentworth worked a 9-hour shift with
26

1 alternating Mondays off. Her scheduled work hours were 9 am to 6:30 pm. According to her
2 supervisor, Ms. Wentworth was not authorized to work from home without pre-approval.

3 2. According to the complainant, Ms. Wentworth repeatedly arrived to work
4 late, without notifying her supervisor. She was asked to submit leave slips in accordance
5 with her arrival times and she has failed to do so. She arrived an average of over two
6 hours late every day and was frequently late by up to four hours or more if not absent
7 altogether. While her job does require occasional travel to other prison facilities, those
8 days are in the minority.

9 3. According to the complainant, expectations had repeatedly been given to
10 Ms. Wentworth to document in her Outlook calendar any time that she is going to be
11 working off site, but she rarely complied. These stated expectations had either been
12 completely ignored or were done after the fact. There was a time that she reported that her
13 late arrivals could have been attributed to working from home. The complainant said that
14 since the spring of 2018, there was a clear expectation had been that any work from home
15 would have to be pre-authorized.

16 4. Board staff received an email from Ms. Wentworth on August 23, 2019
17 requesting an extension for her response to the notification of the allegations. Board staff
18 extended her response date to September 10, 2019.

19 5. On September 11, 2019, Ms. Wentworth emailed Board staff advising that she
20 was having difficulty searching her email vault since she did not know the parameters for her
21 search. Ms. Wentworth asked for specific dates to address.

22 6. Board staff contacted Karie Rainer (Ms. Rainer), Director of Mental Health at
23 DOC and Ms. Wentworth's supervisor. Board staff asked Ms. Rainer if there was any
24 documentation regarding Ms. Wentworth's attendance at work. Ms. Rainer advised Board staff
25 that since January 2019, she had been taking notes regarding Ms. Wentworth's arrival time
26 and absences from work. Board staff requested and were provided copies of Ms. Rainer's

1 notes. The notes documented Ms. Wentworth's absences and late arrivals at their office at HQ
2 in Tumwater from January 17, 2019 through July 26, 2019, as well as screenshots from Ms.
3 Wentworth's Outlook calendar. Board staff reviewed Ms. Rainer's notes with her over the
4 telephone.

5 7. In an effort to give Ms. Wentworth specific dates to address, Board staff
6 limited the time frame being reviewed to the notes taken by Ms. Rainier; January 17, 2019
7 through July 26, 2019. Board staff compared Ms. Rainer's documentation to Ms. Wentworth's
8 Key Swipe Card logs at DOC HQ in Tumwater, her emails when available, and her leave
9 records for the specific days in question.

10 8. On September 20, 2019, Board staff emailed Ms. Wentworth the results of that
11 review with the following: "Listed below are dates that have initially been identified as
12 needing clarification as to what hours you were working and why you were not at your
13 assigned work station at the DOC HQ Tumwater office. Board staff were advised by DOC that
14 your assigned work hours are 9 am to 6:30 pm on the "9X9" schedule with alternating
15 Mondays off. Please take the time to review the dates listed below and provide documentation
16 and/or an explanation as to why you were not at your assigned work location during your
17 assigned work hours."

18 9. The following is the list of dates that Mrs. Wentworth was asked to address.
19 Listed next to the specific date is information provided by Ms. Rainer and confirmed during a
20 subsequent interview. In **bold** is information obtained from Ms. Wentworth's Key Swipe Card
21 logs for the HQ building in Tumwater and Ms. Wentworth's leave records provided by DOC
22 to Board staff. Board staff later added emails from Ms. Wentworth's email records from her
23 laptop computer and personal cell phone¹. The emails and Board staff's estimates of time

24 ¹ According to DOC, Ms. Wentworth is assigned a laptop computer but not an agency cell phone. They
25 advise staff not to use their personal cell phone to check their work email due to public disclosure and eDiscovery
26 issues. According to DOC, Ms. Wentworth's user account is not restricted so she is able to access her DOC email
on her personal cell phone. Board staff reviewed Ms. Wentworth's DOC email history and confirmed that she has
accessed her DOC email account from her personal cell phone.

1 absent from work without taking leave were not included on the list of dates sent to Ms.
2 Wentworth.

3 **January 2019**

4 January 17: arrived at office between 11 am and 11:30 am. No email, phone call
or calendar notification of why she was late to the office.

5 **Key card log showed the first swipe was at 11:19 am. No leave taken. No**
6 **emails sent that day. (Estimated time absent without taking leave is 2 hours)**

7 • **February 2019**

8 February 6: arrived between 1 pm and 3 pm. Calendar says Stafford Creek
9 Correction Center (SCCC). Checked with psychologist at SCCC, no evidence
of her being there.

10 **Key card log showed first swipe at 1:55 pm. No leave taken. Two emails**
11 **sent. One email sent by Ms. Wentworth 9:27 am in response to an email**
12 **from Louis Sowers (Mr. Sowers), Chief Psychologist East. The email stated**
13 **in part: Lou....I have an MD appointment this morning and will update you as**
14 **soon as I am in around 11:30... The second email was unrelated and was**
sent at 9:30 am to another DOC employee. (Estimated time absent without
taking leave is 4.5 hours)

15 February 21: first observed at desk at 10:15 am.

16 **Key card log showed first swipe at 10:09 am. No leave taken. One email**
17 **sent at 11:07 am. (Estimated time absent without taking leave is 1 hour)**

18 February 22: first observed at desk after 11 am, received an email at 11:20 am
19 about leaving for medical appointment, said she would be back at 12:30 pm,
observed back at office between 1 pm and 1:30 pm, didn't submit leave.

20 **Key card log showed first swipe at 1:24 pm. No leave taken. First email at**
21 **11:21 am notifying Ms. Rainer that she was leaving for a medical**
22 **appointment. (Estimated time absent without taking leave is 2 hours)**

23 February 28: checked desk at 10:50 am no call, no show, all day? No leave
taken, no explanation.

24 **Key card log showed no record of entry. No leave taken. No emails sent.**
25 **(Estimated time absent without taking leave is 9 hours)**

1 • **March 2019**

2 March 1: checked desk at 10:00 am and through day, no calls, no show,
3 calendar shows at HQ but never showed up all day.

4 **Key card log showed first swipe at 5:57 pm. No leave taken. No emails.**
5 *(Estimated time absent without taking leave is 8 hours)*

6 March 6: arrived at 11:00 am. Spoke with her and she said it was the
7 anniversary of mother's death. Had been on the telephone that morning. Said
8 she would submit leave slip. No calls or emails about late arrival. Never
submitted leave slip even after talking about submitting leave with her at that
time.

9 **Key card log showed first swipe at 11:04 am. No leave taken. First email of**
10 **day at 12:11pm.** *(Estimated time absent without taking leave is 2 hours)*

11 March 14: checked desk at 12:15 pm, not there, saw her at 1:50 pm, said she
12 had been downstairs reading reports during lunch, she acknowledged being late
and arrived at 11:30. Never submitted leave.

13 **Key card log showed no record of entry. No leave taken. First email sent at**
14 **11:41 in response to email sent from Mr. Sowers at 9:35 am.** *(Estimated*
time absent without taking leave is 2 hours)

15 March 19: email saying preparing to leave for Monroe Correction Center, will
16 be arriving late. Never came to work that day. Not sure what work she would
17 have been doing to prepare for that day. (Copy of email provided)

18 **Key card log showed first swipe at 4:56 pm. No leave taken. No emails sent.**
19 *(Estimated time absent without taking leave is 7.5 hours)*

20 March 29: first saw at desk between 10 am and 10:45 am. Walked by at 10 am,
21 not there, walked by at 10:45 am, she was there.

22 **Key card log showed first swipe at 10:29 am. No leave taken. No emails**
sent. *(Estimated time absent without taking leave is 1 hour)*

23 • **April 2019**

24 April 1: email about packing at 9:40 am, was not at office when checked desk
25 at 12:00 pm. doesn't know when she came in that day.

1 **Key card log showed no record of entry. No leave taken. There were**
2 **multiple emails from Mr. Wentworth with multiple DOC employees**
3 **regarding travel to Pasco the following day. The first email was at 9:39 am**
4 **with the subject line “late arrival” in which Ms. Wentworth advises Ms.**
5 **Rainer that she would be packing for her trip and be at the office shortly.**
6 **The email thread with Ms. Rainier continued throughout the day. At 12:09**
7 **pm Ms. Rainer advised Ms. Wentworth to submit a leave slip and to**
8 **submit leaves slips for the last week that have not been submitted. At 3:30**
9 **pm Ms. Wentworth stated to Ms. Rainier that she has developed a**
10 **problem, so she will continue to work from home as she has all morning.**
11 **At 3:32 pm, Ms. Rainer advised Ms. Wentworth that working from home**
12 **needs to be pre-approved and that in the future she is not approved for**
13 **working from home unless they discuss it first.**

14 April 25: first observed at desk 12 pm, nothing on calendar.

15 **Key card log showed first swipe at 12:05 pm. No leave taken. First email**
16 **sent was 12:23 pm. (Estimated time absent without taking leave is 3 hours)**

17 April 26: Checked desk at 1 pm, not there. Saw her at 1:30 pm. Said she would
18 submit leave slip but never did.

19 **Key card log showed first swipe at 2:08 pm. No leave taken. One email sent**
20 **at 5:23 pm. (Estimated time absent without taking leave is 4 hours)**

21 • May 2019

22 May 2: not at desk at 12:30 pm first observed her at desk at 3 pm, nothing on
23 calendar. No email notification.

24 **Key card log showed first swipe at 1:18 pm. No leave taken. One email sent**
25 **at 1:26 pm sent. (Estimated time absent without taking leave is 4 hours)**

26 May 3: checked desk at 1:30 pm not there. Not sure if she came to work later in
27 day.

28 **Key card log showed first swipe at 2:14 pm. No leave taken. No emails**
29 **sent. (Estimated time absent without taking leave is 5 hours)**

30 May 9: checked desk at 11:30 pm not there. Not sure if she came to work later
31 in day.

32 **Key card log showed first swipe at 11:53 am. No leave taken. One email at**
33 **3:10 pm. (Estimated time absent without taking leave is 2.5 hours)**

34 May 16: checked desk at 3:30 pm, had not arrived at work.

1 **Key card log showed no record of entry. No leave taken. No emails sent.**
2 *(Estimated time absent without taking leave is 9 hours)*

3 May 21: Checked desk at 1130 am, not there. Showed up sometime afterwards.

4 **Key card log showed first swipe at 1:24 pm. No leave taken. There were**
5 **multiple emails sent by Ms. Wentworth. The first email sent was at 12:33**
6 **pm. (Estimated time absent without taking leave is 4 hours)**

7 May 22: Checked desk at 12 pm, not there. Showed up sometime afterwards.

8 **Key card log showed first swipe at 11:37 am. No leave taken. One email**
9 **sent at 4:14 pm. (Estimated time absent without taking leave is 2.5 hours)**

10 May 31: Checked desk at 1 pm, not there. Showed up sometime afterwards.

11 **Key card log showed first swipe at 2:48 pm. No leave taken. No emails sent.**
12 *(Estimated time absent without taking leave is 5.5 hours)*

13 • **June 2019**

14 June 7: first checked desk at 2:30 pm, not there, nothing on calendar, checked
15 again at 3 pm not there, checked at 3:45 and she was there.

16 **Key card log showed first swipe at 3:39 pm. No leave taken. One email**
17 **forwarded from Ms. Wentworth's work email to her personal email at 3:42**
18 **pm with payroll information attached. (Estimated time absent without taking**
19 **leave is 6.5 hours)**

20 June 10: 2:30 pm was first time observed at work.

21 **Key card log showed first swipe at 1:02 pm. No leave taken. 1st email sent**
22 **3:54 pm. (Estimated time absent without taking leave is 4 hours)**

23 June 11: checked desk at 1 pm not there, 3 pm not there, first observed at 4:25
24 pm.

25 **Key card log showed first swipe at 4 pm. No leave taken. One email sent at**
26 **5:38 pm. (Estimated time absent without taking leave is 7 hours)**

• **July 2019**

July 11: first observed at desk at 12:19 pm.

1 **Key card log showed first swipe at 12:19 pm. No leave taken. 1st email sent**
2 **2:51 pm. (Estimated time absent without taking leave is 3 hours)**

3 July 25: Taught 12:30 pm class in Lacey until 2:30 pm. didn't come to HQ
4 before or after teaching class.

5 **Key card log showed no record of entry. No leave taken. No emails sent.**
6 **(Estimated time absent without taking leave is 6 hours)**

7 July 26: arrived sometime after 1:30 pm.

8 **Key card log showed first swipe at 1:30 pm. No leave taken. Two emails**
9 **sent at 2 pm and 2:07 pm. (Estimated time absent without taking leave is 4.5**
10 **hours)**

11 10. Based on the review of Ms. Rainer's documentation, Ms. Wentworth's Key
12 Swipe Card logs and Ms. Wentworth's emails, Board staff estimates that Ms. Wentworth
13 failed to submit leave for 111.5 hours between January 17, 2019 and July 26, 2019.

14 11. On October 15, 2019, Board staff emailed Ms. Wentworth at her DOC work
15 email address and asked if she intended to respond to Board staff's email and attachment sent
16 September 20, 2019.

17 12. On October 23, 2019, Ms. Wentworth responded from her DOC work email
18 address stating that she was out of the office for medical reasons for an undetermined amount
19 of time.

20 13. Board staff reviewed Ms. Wentworth's DOC Outlook emails and found an
21 email sent from Ms. Wentworth to Ms. Rainer on October 9, 2019 with the subject line:
22 FMLA/LWOP. In the email Ms. Wentworth states the following:

23 I fell while on my annual leave..... I have had to move ahead with what had been
24 planned as surgery in January (to take advantage of the new labor law that allowed
25 leave with pay for FMLA, to now.....I will be submitting medical and FMLA
26 paperwork to you as soon as possible and am requesting permission for Leave Without
27 Pay effective immediately. I hope you will approve this request....

1 14. On October 9, 2019 at 5:42 pm, Ms. Rainier responded to Ms. Wentworth with
2 the following email:

3 *.....I am very sorry to hear of your injury. Thank you for letting me know what is*
4 *happening. I will let HR know to expect your paperwork soon. If I am understanding*
5 *you below, you will be submitting your leave (some paid and some unpaid) for the time*
6 *you haven't been in the office, beginning September 30. I believe that would be a total*
7 *of 63 hours (Sept 30- Oct 8)....*

8 15. In a written response from Ms. Rainer, she advised Board staff that Ms.
9 Wentworth submitted leave for the period September 30, 2019 through October 8, 2019. Ms.
10 Rainer said she has been submitting leave without pay on Ms. Wentworth's behalf since
11 October 9, 2019. She said Mr. Wentworth has not communicated with anyone at DOC since
12 that date to the best of her knowledge. Ms. Rainer said that Lydia Zamora-White (Ms. Zamora-
13 White), HR Manager with DOC, has asked her to draft a letter to Ms. Wentworth asking for
14 her plans to return to work with a deadline for her to respond.

15 16. In a written response from Ms. Zamora-White to Board staff, she confirmed
16 that there has been no communication with Ms. Wentworth since she went on leave.

17 17. On December 5, 2019, Board staff emailed Ms. Wentworth at her personal
18 email address requesting that she provide a response to the list of dates provided to her on
19 September 20, 2019. Board staff also left a voice mail at a personal telephone number
20 provided by DOC requesting that she respond to Board staff. Board staff confirmed the same
21 telephone number was listed on the internet for a Deborah C Wentworth, PHD. Board staff
22 have not received a response from Ms. Wentworth since the October 23, 2019 email referred
23 to in paragraph 12.

24 18. On January 23, 2020, Board staff were advised by DOC that Ms. Wentworth
25 resigned as of January 22, 2020 and that their investigation had been administratively closed.

26 **III. CONCLUSIONS OF LAW**

1. RCW 42.52.160(1) – Use of persons, money, or property for private gain, states:

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

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

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

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

9 (i) There is little or no cost to the state;

10 (ii) Any use is brief;

11 (iii) Any use occurs infrequently;

12 (iv) The use does not interfere with the performance of any state officer's
13 or employee's official duties;

14 (v) The use does not compromise the security or integrity of state
15 property, information systems, or software;

16 (vi) The use is not for the purpose of conducting an outside business, in
17 furtherance of private employment, or to realize a private financial gain;
18 and

19 (vii) The use is not for supporting, promoting the interests of, or soliciting
20 for an outside organization or group.

21 2. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction
22 over Ms. Wentworth and over the subject matter of this complaint.

23 3. Based on the evidence, Ms. Wentworth state resources (time) for her private
24 benefit or gain in violation of RCW 42.52.160. Ms. Wentworth's activities do not meet the
25 exceptions for the use of state resources as permitted in WAC 292-110-010.

26 4. The Board is authorized to impose sanctions for violations to the Ethics Act
pursuant to RCW 42.52.360.

5. In determining the appropriateness of the civil penalty, the criteria in WAC 292-
120-030 have been reviewed.

1 **IV. FINAL ORDER**

2 Based on the foregoing:

3 IT IS HEREBY ORDERED Respondent Deborah Wentworth Johnson is liable for and
4 shall pay a civil penalty of three-thousand-five-hundred dollars (\$3,500). The payment shall be
5 made to the Executive Ethics Board within forty-five (45) days of this Order.

6 **V. AUTHORITY AND PROCEDURE**

7 Pursuant to RCW 34.05.470, Respondent has the right to file a Petition for
8 Reconsideration stating the specific grounds upon which relief is requested. The Petition must
9 be filed with the Executive Ethics Board at 2425 Bristol Court SW, Olympia, Washington
10 98504, or by U.S. Mail at P.O. Box 40149, Olympia, Washington 98504-0149, within ten (10)
11 days of service of the Final Order upon Respondent.

12 The Petition for Reconsideration shall not stay the effectiveness of this order nor is a
13 Petition for Reconsideration a prerequisite for seeking judicial review in this matter. A timely
14 Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the
15 petition is filed, the Board does not (a) dispose of the petition or (b) serve the parties with a
16 written notice specifying the date by which it will act on a petition.

17 Respondent has the right to petition the superior court for judicial review of the Board's
18 action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition
19 for Judicial Review, see RCW 34.05.510 and sections following.
20
21
22
23
24
25
26

1 DATED this 13th day of November 2020.

2
3 Approved via Virtual Meeting
4 Shirley Battan, Chair

5
6 Approved via Virtual Meeting
7 Gerri Davis, Vice Chair

8
9 Approved via Virtual Meeting
10 Lisa Marsh, Member

11
12 Absent
13 Anna Dudek-Ross, Member

14
15 Approved via Virtual Meeting
16 Jan Jutte, Member

17
18
19
20
21
22
23
24
25
26