

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Breyan Haizlip,
Respondent.

No. 2019-044

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, BREYAN HAIZLIP, 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 November 4, 2019, the Board received a referral from Western Washington University (WWU) alleging that Breyan Haizlip (Ms. Haizlip), Assistant Professor with Western Washington University, may have violated the Ethics in Public Service Act. The complaint alleged that she used state resources in support of her outside business, Momentum Counseling & Consulting.

2. Pursuant to RCW 42.52.420, Board staff reviewed the internal investigation conducted by WWU Internal Audit and all of their supporting documentation, including their review and finding related to Ms. Haizlip's work computers, MacBook Pro, iMac and iPad Pro and her Outlook emails. Board staff also reviewed the scope of the Board's jurisdiction and authority under the Ethics in Public Service Act, RCW 42.52.

3. Ms. Haizlip was hired by WWU as an Assistant Professor on September 16, 2017 and she was in that position for all times pertinent to this investigation.

4. Momentum Counseling & Consulting, LLC, was a licensed Washington State business since April 4, 2018. Momentum Counseling & Consulting, LLC failed to file an annual report that was due on May 20, 2019. As a result, Momentum Counseling & Consulting, LLC, was administratively dissolved by the Secretary of State's Office on September 3, 2019.

5. Between February 2, 2019 and March 16, 2019, the WWU Office of Internal Audit (OIA) received five anonymous reports outlining a variety of complaints related to Ms. Haizlip. The complaints alleged that Ms. Haizlip was using WWU resources to conduct her outside business activities and that she was using her position at the university to recruit clients for her outside business.

6. WWU OIA requested Ms. Haizlip deliver her work computer devices (MacBook Pro¹ and iPad Pro²) to their office. Ms. Haizlip delivered the two devices as requested. According to the OIA, the two devices appeared not to have been altered between the time of the request and the time of delivery. At that time, Ms. Haizlip informed the OIA that she also had an iMac³ computer at her home that was not requested. The OIA requested that Ms. Haizlip deliver the iMac computer to them. The iMac computer was delivered to the OIA later that same day. On the initial review by the OIA it appeared that all contents of the desktop, documents, and download, folders were deleted from the folders about one hour prior to delivery.

7. WWU OIA ran a recovery process on the hard drive of the iMac computer and recovered content from all three folders. However, due to the recovery process, some of the documents were not viewable but the titles of the documents would suggest they were personal in nature and related to her outside business.

¹ MacBook Pro – Apple laptop computer.

² iPad Pro – Apple tablet computer.

³ iMac – Apple all-in-one desktop computer.

8. The WWU OIA's review of Ms. Haizlip's computer devices revealed the following:

- 38 images related to her outside business activities using 113 MB (Megabytes) of disk space.
- 58 videos related to her outside business activities using 25,771 MB of disk space.
- 1,294 emails related to her outside business activities.
- Ms. Haizlip's WWU email signature contained the URL and hyperlink to her outside business, <https://www.drbre.com/>. The URL and hyperlink appear to have been added to her WWU email signature block on 9/12/18 and as late as 2/26/19 was still included.

9. In addition to the outside business related personal use the WWU OIA discovered the additional personal use shown below:

- 470 songs using 4,050 MB of disk space.
- Three Amazon Prime videos using 2,270 MB of disk space.
- 492 personal pictures/images using 1,025 MB of disk space,
- Six personal documents using 5 MB of disk space.
- 55 personal apps (software applications/programs) on the iPad Pro using 14,165 MB of space.

10. The WWU OIA noted minimal evidence that the iPad Pro had been used for work-related activities at all, indicating that most of the applications downloaded to this device appeared to be personal in nature. Most of the tabs opened on the iPad Pro's browser, the images and music, and most of the videos appeared to be personal or outside business related. In addition, Ms. Haizlip's personal Gmail account was assigned as the default email account on the iPad Pro.

11. On November 22, 2019, Board staff obtained the imaged hard drives, the iPad Pro, Ms. Haizlip's Outlook emails, and the OIA summary report as well as all supporting documentation from the WWU OIA.

12. Board staff created copies of the imaged hard drives provided by WWU using FTK Imager software. Board staff created a quick image of Ms. Haizlip's iPad Pro tablet using Magnet Acquire software. Once the three images were created, Board staff processed the images and Ms. Haizlip's Outlook emails using Magnet Forensic Axiom 3.7 software to search for evidence related

to Ms. Haizlip's personal use and to her use in supporting her outside business, Momentum Counseling & Consulting. In addition to the installed Apple internet browser, Safari, Ms. Haizlip installed and used Google Chrome and Mozilla Firefox browsers to visit internet sites. See key findings below:

iPadPro (Tablet)

➤ Momentum Counseling & Consulting:

Media – videos – images/pictures

- 25 videos that were created using this device related to training provided to the Community Food Co-Op.
- 12 testimonial videos that were created using this device and subsequently uploaded to the, Momentum Counseling & Consulting website at <https://www.drbre.com>
- 28 additional videos that were created using this device related to training provided at various location by Ms. Haizlip.
- Over 200 images/pictures related to Ms. Haizlip's outside business. Many if not all of the picture/images appear to be snapshots of the outside business related videos mentioned above.

➤ Other Personal:

- Over 590 personal videos created using the iPadPro. Video times range from a few seconds to more than 30 minutes in length. Many of these videos were created by Ms. Haizlip's daughter and many were of basketball games in which one of Ms. Haizlip's daughters participated in.
- 55 personal Applications installed and used by all of Ms. Haizlip's family members for their personal use.

➤ Personal internet use:

- Google Chrome (5/25/18 – 12/24/18)
 - YouTube.com, visit count 278, last visit date/time, 12/23/18 at 11:58 pm.
 - Xfinity.com/stream/listings, visit count 137, last visit date/time, 12/19/18 at 6:32 pm.
 - Roblox.com/games, visit count 258, last visit date/time, 12/19/18 at 12:57 pm.
 - Netflix.com/browse, visit count 110, last visit date/time, 12/17/18 at 11:31 pm.
 - Google mail/inbox, visit count 143, last visit date/time, 12/17/18 at 11:59 am.
 - FaceBook.com/Breyan.haizlip, visit count 53, last visit date/time, 12/9/18 at 2:38 pm.
 - WWU.instructure.com, visit count 63, last visit date/time, 12/09/18 at 2:03 pm.
 - BankofAmerica.com/smallbusiness/, visit count 13, last date/time, 12/9/18 at 1:38 pm.
 - Drbre.com, visit count 83, last visit date/time, 11/15/18.
 - Wix.com/account/sites, visit count 45, 9/22/18 10:32 am.

MacBook Pro (Laptop):

- Momentum Counseling & Consulting:
 - Internet – Safari
 - <https://www.drbre.com/> - 8/14/18 at 5:52 pm – Momentum Counseling
 - <https://calendar.google.com/calendar/r/week/2018/12/20?> – 1/17/19 at 7:11 pm – Momentum Consulting & Counseling, LLC. - Calendar
 - Chrome login – <https://auth.uber.com/login/session/> - username – momentum@drbre.com.
 - Momentum Counseling & Consulting Wifi connections – First connection on 12/1/18, last connection on 3/17/19.
- Palo Alto University – Adjunct Professor:
 - Internet – Chrome
 - <https://paloalto.onelogin.com/login> - 2/26/19 6:52 pm
- Other Personal (Internet – 6/30/18 through 3/1/19):
 - YouTube.com – Safari (6/30/18 through 2/11/19) – visited on 40 days.
 - Roblox.com – Safari (6/30/18 through 2/12/19) – visited on 18 days.
 - Netflix.com – Safari (6/30/18 through 11/18/18) – visited on 14 days, Chrome (2/28/19 through 3/1/19) – visited on 2 days.
- Other Personal (Media)
 - Videos – 23 – duration a few seconds to ten minutes
 - Pictures/images – 417

iMac (All-in-One Desktop)

On the initial review by the OIA it appeared that all contents of the desktop, documents, and download, folders were deleted from the folders about one hour prior to delivery to the OIA, on March 22, 2019 at 10:47 am.

- Momentum Counseling & Consulting:
 - Internet –
 - Momentum Counseling – 8/8/18 at 10:16 pm
 - Google mail – Momentum Counseling and consulting mail – 3/9/18 at 9:34 am.
 - Google mail – www.clover.com/claim?email – 8/28/18 at 8:32 am.
 - Google search – Momentum Counseling, Bellingham Wa – 10/3/18 at 1:18 pm.
 - Chrome Login (3)
 - www.clover.com/home/login - User name: momentum@drbre.com.
 - <https://users.wix.com/sihnin> - User name: momentum@drbre.com.
 - www.vistaprint.com/vp/ns/sign_in.aspx - User name: momentum@drbre.com.
- Other Personal (Internet – 6/23/18 through 2/8/19):

- YouTube – Safari (6/23/18 through 2/8/19) – 529 visits, WebKit (6/24/18 through 3/22/19) – 128 visits.
- Google mail (6/26/18 through 3/22/19) – 112 visits, last visit 3/22/19 at 10:33 am.
- Login’s to various site using gmail.com user names (17), see examples below:
 - Jobs.wvu.edu/createlogin.aspx – **Haizlip.adam1@gmail.com**, created date/time, 8/9/18 at 11:56 am.
 - https://usr54.dayforcehcm.com/CandidatePortal/en-US/chi/CandidateLogin/CreateAccount - **Haizlip.adam1@gmail.com**, created date/time, 8/12/18 at 11:24 am.
 - amazon.com/ap/signin - **kalihaizlip@gmail.com**, created date/time, 9/8/18 at 5:34 pm.
 - identity.ticketmaster.com/embed – **dr.bhaizlip@gmail.com**, created date/time, 10/3/18 at 1:28 pm.
 - www.bellinghambikram.com/register/ - **Andrea.glover31@gmail.com**⁴, created date/time, 10/15/18 at 9:33 pm.
 - www.papajohns.com/order/stores-near-me – **kalihaizlip@gmail.com**, created date/time, 1/26/19 at 6:54 pm.
 - www.hulu.com/start - **Dreca15@gmail.com**, created date/time, 1/30/19 at 3:58 pm.

The multi usernames indicate that multiple users had access and logged onto this computer for their personal benefit.

- Roblox.com/games – 155 days visited for the period of 6/22/18 – 3/21/19.

Outlook emails: 7,337 from 9/14/17 through 2/26/19:

- 404 of Ms. Haizlip’s sent Outlook emails contained the following link to Momentum Counseling & Consulting (<https://www.drbre.com/>) in the official WWU signature block. See below:

Dr. Breyan Haizlip, LPC, LMHC
Assistant Professor- Somatic Counseling Psychology
 Fairhaven College of Interdisciplinary Studies
 Western Washington University
 Bellingham, WA 98225-9118
<https://www.drbre.com/>

- 31 emails are directly related to the support Ms. Haizlip’s outside business.
- 23 emails are directly related to Ms. Haizlip’s adjunct professorship at Palo Alto University.

B. CONCLUSIONS OF LAW

1. 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:

⁴ Andrea Glover – Haizlip family friend.

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.

2. WAC 292-110-010 Use of state resources states, after April 2016, 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.

3. Based on the stipulated facts above, Ms. Haizlip used state resources for a personal benefit for herself or others in violation of RCW 42.52.160 and WAC 292-110-010.

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 aggravating factors that these types of violations significantly reduce the public respect and confidence in state government employees and the violations were continuous in nature.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Breyan Haizlip 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. Breyan Haizlip 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. Breyan Haizlip 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. Breyan Haizlip 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 Breyan Haizlip 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. Breyan Haizlip 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 Breyan Haizlip and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

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 Breyan Haizlip 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, Breyan Haizlip 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, Breyan Haizlip 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. Breyan Haizlip agrees to pay a civil penalty in the amount of seven thousand five hundred dollars (\$7,500) associated with violations of RCW 42.52. The Board agrees to suspend two thousand dollars (\$2,000) on the condition that Breyan Haizlip 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 five thousand five hundred dollars (\$5,500), 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, Breyan Haizlip, 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.


BREYAN HAZLIP 2/2/2020
Respondent Date

Presented by:


KATE REYNOLDS 3/2/2020
Executive Director Date

III. 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 July 2020

Approved via Video Meeting
Shirley Battan, Chair

Absent
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, Breyan Haizlip, accept/do not accept (circle one) the proposed modification(s).

Breyan Haizlip, Respondent Date