

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

3 In the Matter of:

EEB Case No. 2019-013

4 Marisa O'Neill,

FINAL ORDER

5 Respondent  
6

7  
8 **I. PROCEDURAL HISTORY**

9 On September 13, 2019, the Executive Ethics Board (Board) found reasonable cause to  
10 believe that the Respondent, Marisa O'Neill (Ms. O'Neill), violated the Ethics in Public Service  
11 Act while employed as an Executive Assistant to Sue Rahr (Ms. Rahr) with the Criminal Justice  
12 Training Commission (CJTC). Notice of the Reasonable Cause Determination and the right to  
13 request a hearing was served upon Ms. O'Neill by regular mail and certified mail on September  
14 16, 2019. Board staff received Mr. O'Neill's response to the Reasonable Cause Determination  
15 on October 16, 2019. On December 19, 2019, Ms. O'Neill's case was transferred to AAG  
16 Stephen Manning to set the case for hearing.

17 The Office of Administrative Hearings (OAH) mailed proper notice to Ms. O'Neill on  
18 February 13, 2020 for a prehearing conference scheduled for Tuesday, February 25, 2020. The  
19 notice containing the following instructions:

20 **You must call in to the conference. If you fail to call in, the administrative**  
21 **law judge may hold you in default and dismiss your appeal. RCW**  
22 **34.05.440(2).**

23 As per the Notice of Prehearing Conference, Administrative Law Judge Dan Gerard convened  
24 the prehearing conference on Tuesday, February 25, 2020 at 9:00 a.m. The Respondent, Ms.  
25 O'Neill, did not appear. At 9:15 a.m., when no one appeared on behalf of Ms. O'Neill, the

1 Executive Ethics Board Staff, represented by Stephen Manning, Assistant Attorney General,  
2 moved for a default order.

3 Administrative Law Judge Dan Gerard granted the Board staff's motion for default for  
4 the Respondent Marsia O'Neill's failure to appear for the prehearing conference, under RCW  
5 34.05.440(2). The written order confirms that verbal ruling.

6 On Friday February 28, 2020, OAH provided Ms. O'Neill with notice of the OAH's  
7 Order of Default by regular and certified mail.

8 Pursuant to RCW 34.05.440 (3), Ms. O'Neill had seven (7) days to request the Order of  
9 Default be vacated.

10 On March 4, 2020, OAH received the Respondent's Petition to Vacate Order from Ms.  
11 O'Neill.

12 The OAH mailed proper notice to Ms. O'Neill on March 6, 2020 for a "Notice of Motions  
13 Hearing" to vacate the Default Order issued on February 25, 2020, scheduled for Tuesday, March  
14 17, 2020. The notice containing the following instructions:

15 **You must call in to the motions hearing. If you fail to call in, the**  
16 **administrative law judge may hold you in default and dismiss your appeal.**  
17 **RCW 34.05.440(2).**

18 Ms. O'Neill did not appear at the hearing to vacate the default on March 17, 2020. No  
19 testimony was provided on the good causes for failing to appear at the February 25, 2020,  
20 prehearing conference. Ms. O'Neill's petition to vacate was denied and the Order Dismissing  
21 Appeal issued February 28, 2020 remains in full force and effect.

## 22 II. FINDINGS OF FACT

23 1. On March 7, 2019, the Executive Ethics Board (Board) received a complaint  
24 alleging that Marisa O'Neill (Ms. O'Neill), Executive Assistant to Sue Rahr (Ms. Rahr) with the  
25 Criminal Justice Training Commission (CJTC), may have violated the Ethics in Public Service

1 Act. The complaint alleges that Ms. O'Neill took time off without submitting the proper leave  
2 and that Ms. Rahr knowingly allowed her to do so. In addition, the complaint alleges that Ms.  
3 O'Neill used the CJTC issued credit card to purchase whatever she would like bypassing the  
4 purchasing and procurement employees at CJTC.

5 2. Ms. O'Neill was first hired by CJTC in late November 2013, in a temporary  
6 position. In October 2014, Ms. O'Neill was promoted into her current position of Executive  
7 Assistant.

8 3. Ms. O'Neill indicated in her response to Board staff that she works a set schedule,  
9 Monday through Friday, 7:00 am to 3:30 pm. For all times pertinent to this investigation, Ms.  
10 O'Neill was considered an overtime exempt employee.

11 4. Ms. O'Neill indicated in her response to Board staff that her daily work schedule  
12 fluctuates with the demands of the agency. She further indicated that her job duties did not  
13 provide her the ability to stick to a set schedule.

14 5. Board staff reviewed Ms. O'Neill's calendar for times which indicated that she  
15 would be on leave. Board staff then compared her calendar to her supervisor, Ms. Rahr's,  
16 calendar showing when she believed Ms. O'Neill would be on leave and then compared the  
17 leave taken with her submitted and approved leave report. In addition, Board staff reviewed  
18 emails and computer activity to verify days off. Board staff's review identified several days  
19 where it appeared Ms. O'Neill was not working and did not submit leave. See details below:  
20

- 21 • **Friday, October 20, 2017** – Ms. O'Neill and Ms. Rahr's calendars show Ms.  
22 O'Neill to be on vacation leave in NE (Nebraska). No leave was submitted, 6  
23 hours.

24 Ms. O'Neill indicated in her response that she believes she used flextime because  
25 she had worked extra during the week and that she worked on the 20<sup>th</sup> as well.  
26 Board staff looked at sent emails for October 20<sup>th</sup> and found that Ms. O'Neill sent  
11 emails starting at 7:00 am with the last email sent at 8:25 am. Ms. O'Neill's  
calendar also indicated that she would be in the office at 6:30 am, going to the

1 airport at 8:30 am, and on the plane SEA-OMA (Seattle to Omaha NE) at 10:30  
2 am.

3 At 12:02 pm an email was sent as an out of office response indicating that she  
4 was out of the office, would not return until Monday, and that she would not have  
5 access to her emails.

- 6 • **Wednesday, November 8, 2017** – Ms. O’Neill’s calendar indicates, Cardiologist  
7 pm, OOO (Out-Of-Office) and Ms. Rahr’s calendar shows Ms. O’Neill to be  
8 OOO/sick leave. No leave was submitted, 8 hours.

9 Ms. O’Neill indicated in her response that she worked an extra hour on three  
10 different occasions the week before; indicating that she was flexing her schedule.

- 11 • **Thursday, December 14 and Friday, December 15, 2017** – Ms. O’Neill’s  
12 calendar shows Hawaii and Ms. Rahr’s calendar shows Ms. O’Neill to be on  
13 vacation in Hawaii. No leave was submitted, 16 hours.

14 Ms. O’Neill indicated in her response that she worked extra hours in preparation  
15 for an upcoming Commission Meeting on December 13<sup>th</sup>. She indicated she  
16 would typically start work early each day and work late into the evening to  
17 prepare for the meeting, making last minute edits to materials, printing handouts,  
18 and packet preparation.

- 19 • **Tuesday December 26 through Friday December 29, 2017** – Ms. O’Neill’s  
20 calendar indicates NE-TN and Ms. Rahr’s calendars show Ms. O’Neill to be  
21 OOO/vacation leave. No leave was submitted, 32 hours.

22 Ms. O’Neill indicated in her response that she should have submitted leave for  
23 this period and that it was an “unintentional error.” She further indicated that she  
24 was on leave relocating her home from Nebraska to Tennessee.

25 As soon as Ms. O’Neill became aware that she did not submit the required leave,  
26 she immediately started the process to correct the error. On July 29, 2019, the  
leave was successfully submitted and approved.

- **Friday, February 16, 2018** – Ms. O’Neill’s calendar indicates “T-Dome State  
Wrestling” and Ms. Rahr’s calendar shows “Marisa V/L.” No leave was  
submitted, 8 hours.

Ms. O’Neill indicated in her response that she was scheduled for leave however  
she ended up working. She worked some prior to leaving for the Tacoma Dome.  
While at the Tacoma Dome, she responded to emails and phone calls. She also

1 indicated that she had worked extra the following week, so she used flextime to  
2 attend the event.

3 6. Ms. O'Neill indicated in her response to Board staff that she would put leave  
4 on her calendar in advance to hold the time. As the date approached or upon her return from  
5 leave, she would submit the appropriate leave. She further indicated that she now sees the flaws  
6 in that system as she completely missed entering leave for the week after Christmas 2017.

7 7. Ms. O'Neill indicated in her response that there is no formal mechanism to track  
8 exchange time. Exchange time is tracked verbally between herself and Ms. Rahr; that Ms. Rahr  
9 is aware when she works extra and authorizes her to use exchange time.

10 8. Ms. Rahr, in a response to Board staff, stated that she would allow Ms. O'Neill  
11 to take time off prior to working the extra time except that Ms. O'Neill routinely worked more  
12 than 40 hours per week and was frequently in a situation where CJTC owed her time. Ms. Rahr  
13 could not think of a time when Ms. O'Neill needed to work extra to make up hours.

14 9. Ms. Rahr also indicated in a response to Board staff that she allowed Ms. O'Neill  
15 to flex her work hours. That if Ms. O'Neill worked extra on one day she would allow her to take  
16 that time off on a different day. In most cases that would be within a couple of weeks of the  
17 extra time. Ms. Rahr further indicated that they did not have a written policy in place until  
18 January 2019.

19 10. In a response to Board staff, Ms. Rahr stated that her expectation for Ms. O'Neill  
20 when she was working remotely is that Ms. O'Neill remain available by phone or email during  
21 her normal work hours. However, she does not expect Ms. O'Neill to conduct all of her work  
22 during those hours. For example, Ms. O'Neill could work several hours in the early morning  
23 and then several hours later in the day.

24 11. Ms. Rahr indicated that a great deal of the work Ms. O'Neill performs when she  
25 is working remotely requires long stretches of uninterrupted time, which she does not have when  
26

1 working in the office at CJTC. Ms. Rahr further indicated that Ms. O'Neill is able to work more  
2 efficiently on many projects when she works remotely.

3 12. A review of Ms. O'Neill's and Ms. Rahr's calendars showed several weeks of  
4 time for the period of October 2018 through February 2019, where she was working remotely  
5 from Tennessee. See details below:

- 6 • Wednesday, October 3 through Wednesday, October 10, 2018.
- 7 • Monday, November 19 through Monday, November 26, 2018.
- 8 • Friday, February 1 through Sunday, February 10, 2019.

9  
10 13. Ms. Rahr indicated to Board staff that she would allow other CJTC employees to  
11 work remotely depending on the circumstances. She further indicated that her focus is always  
12 on the most efficient way to get the work done.

13 14. In all of the dates above, Ms. Rahr indicated that Ms. O'Neill met her  
14 expectations for completing work while working remotely and that she did not require her to  
15 submit leave.

16 15. On March 21, 2019, Board staff arrived at the CJTC Academy and obtained a  
17 copy of Ms. O'Neill's work laptop computer hard drive and 24 months of Outlook emails. At  
18 that time, Ms. O'Neill did not have her assigned mobile phone because she had left it at home.  
19 Board staff returned to CJTC on March 25, 2019 and obtained a copy of Ms. O'Neill's state  
20 issued iPhone.

21 16. Using Magnet Forensics' Axiom 3.2 software, Board staff analyzed the content  
22 of the computer hard drive, iPhone, and Outlook emails. Ms. O'Neill was issued her current  
23 laptop on June 7, 2018. See some of the results below:  
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25  
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1 **Internet Browsing History**

2 **Edge/Internet Explorer: July 5, 2018 through March 21, 2018**

3 **Chrome: December 23, 2018 through March 21, 2019**

4 Federal Tax Return – Turbo Tax (on-line)

- 5 ○ Wednesday, January 16, 2019 – logon to TurboTax through My TurboTax login,  
6 sign in to TurboTax to work on your Tax return, at 7:58 am and again at 8:45 am.  
7 The 8:45 am session had a last entry of 8:54 am. Approximately 10 minutes.
- 8 ○ Saturday, January 26, 2019 – logon to TurboTax through My TurboTax login,  
9 sign in to TurboTax to work on your Tax return, at 12:09 pm. Last entry at 12:32  
10 pm. Approximately 23 minutes.
- 11 ○ Wednesday, January 30, 2019 – logon to TurboTax through My TurboTax login,  
12 sign in to TurboTax to work on your Tax return, at 2:57 pm. Last entry at 3:28  
13 pm. Approximately 31 minutes.
- 14 ○ Monday, February 4, 2019<sup>1</sup> – logon to TurboTax through My TurboTax login,  
15 sign in to TurboTax to work on your Tax return, at 8:43 am. Last entry at 9:22  
16 am. C:/Users/maoneill/Downloads/2018\_TaxReturn.pdf. Approximately 39  
17 minutes.
- 18 ○ Monday, February 4, 2019 at 9:23 am, H:/Antonio\_2018\_TaxReturn pdf.

19 Eastern Washington University (EWU) – Ms. O’Neill’s son attended EWU during this time.

- 20 ○ In 2019, Ms. O’Neill accessed the EWU web site on 15 days in January, seven  
21 days in February and two days in March. Some examples of sites visited are  
22 shown below:
- 23 ○ <http://www.ewu.edu/>
  - 24 ○ Statement and Payment History
  - 25 ○ Learning Management System
  - 26 ○ [Canvas.ewu.edu/login](http://Canvas.ewu.edu/login)
  - Account Summary by Term
  - [Canvas.ewu.edu/courses/1249847](http://Canvas.ewu.edu/courses/1249847) – Biol 100-01: Grays Biology
  - EWU Academic Calendar
  - [Canvas.ewu.edu/course/1249847/assignments/4563676/submissions](http://Canvas.ewu.edu/course/1249847/assignments/4563676/submissions) –  
Tell me about your Science Background.
  - Grades

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<sup>1</sup> February 4, 2019 is a day Ms. O’Neill is working remotely from TN.

1 Whatcom Community College (WCC) – Ms. O’Neill’s other son attended WCC during this  
2 time.

- 3 ○ In 2019, Ms. O’Neill accessed the WWC web site on 14 days in January, two  
4 days in February and three days in March. Some examples of sites visited are  
5 shown below:
  - 6 ○ <http://www.whatcom.edu/>
  - 7 ○ <http://whatcom.edu/student-services/mywcc>
  - 8 ○ <http://www.whatcom.edu/admissions/financial-aid>
  - 9 ○ <https://wcc.instructure.com/login>
  - 10 ○ <https://wcc.instructure.com/courses/1712707>
  - 11 ○ <https://wcc.instructure.com/courses/1712707/grades>
  - 12 ○ <https://mywcc.whatcom.edu/CurrentSchedule.aspx>
  - 13 ○ <https://wcc.instructure.com/courses/1712707/assignments/14105987/submissions/5000234>
  - 14 ○ <https://wcc.instructure.com/courses/1713211>

15 Boise State University – Ms. O’Neill’s daughter was enrolling in Boise State University during  
16 this time.

- 17 ○ In 2019, Ms. O’Neill accessed the Boise State University web site on four  
18 days in January, two days in February. Some examples of sites visited are  
19 shown below:
  - 20 ○ <https://www.boisestate.edu/housing>
  - 21 ○ <https://www.boisestate.edu/admissions/visit>
  - 22 ○ <https://my.boisestate.edu/>
  - 23 ○ <https://fafsa.gov>
  - 24 ○ <https://studentaid.ed.gov/sa/fafsa>

#### 25 Real Estate

- 26 ○ Zillow.com – last accessed on 1/3/19 – 1:58 pm to 2:10 pm
  - On 1/3/19 at 2:02 pm, Ms. O’Neill sent an email to Chad Peer (friend of Ms. O’Neill) with a link to a home viewed during this session. Subject line - “house in eden prairie,” [http://www.zillow.com/homes/forsale/Eden-Prairie-MN/1888552\\_zpid/4515\\_rid/globalrelevanceex\\_sort/44.925553.-93](http://www.zillow.com/homes/forsale/Eden-Prairie-MN/1888552_zpid/4515_rid/globalrelevanceex_sort/44.925553.-93).
  - On 1/3/19 at 2:07 pm, Ms. O’Neill sent an email to Chad Peer with a link to a home viewed during this session. Subject line - “I like this one,” [http://www.zillow.com/homes/forsale/Eden-Prairie-MN/1707190zpid/4515\\_rid/globalrelevanceex\\_sort/44.9925553.93](http://www.zillow.com/homes/forsale/Eden-Prairie-MN/1707190zpid/4515_rid/globalrelevanceex_sort/44.9925553.93).
  - Bellingham Housing.com – last accessed on 1/4/19 at 4:16:16 pm
  - Paylease.com – last accessed on 1/4/19 at 4:16:27 pm.
  - Hammer Properties NW – last accessed on 1/5/19 at 10:24 am.
  - Realtor.com – last accessed on 1/22/19 at 4:01 pm.
  - Redfin.com – accessed on 1/22/19 at 4:06 pm. Looking at property in Tennessee.
  - Redfin.com – last accessed on 2/20/19 at 12:45 pm. Looking at property in Spanaway, WA.



- Paylease .com – last accessed on 1/5/19 at 8:49 am

On-Line Bill Pay

- Hammer Properties – Make a payment – accessed on 1/5/19 at 10:27 am.
- Verizon wireless – payment – pay bill confirmation – accessed on 1/10/19 at 8:35 am
- Puget Sound Energy (PSE) – account and billing/my-bill/back account ## - 1/10/19 at 12:31 pm.
- Creditonebank.com – Pay Bill – last accessed 3/18/19 at 9:46 am.

On-line Purchases

- Amazon – Amazon high-density iPad case/cover – mailed to Stephanie Gonzales, \$27.94 – 12/25/18.
- Amazon - How to Draw Pokemon - mailed Ms. O’Neill, 990 Red Bluff Way, \$10.04 – 12/7/18.
- Amazon – Olympia under the seat – mailed Ms. O’Neill, 990 Red Bluff Way, \$53.64 – 12/2/18.
- Amazon – Nerf and Strike Elite – mailed Ms. O’Neill, 990 Red Bluff Way, \$53.64 – 11/26/18. (more examples of personal Amazon purchases available)
- Amazon - \$50 gift Card – 9/25/18 – on 9/25/18 at 7:16 am, Ms. O’Neill sent an email with this gift card attached to “v.davies@hotmail.com.
- Zappos - Order confirmation email – 8/10/18 at 12:28 pm.

Google Mail (Gmail)

- 1/5/19 at 8:54 am – Inbox – bacsmama@gmail.com
- 1/17/19 at 8:31 am – Inbox – bacsmama@gmail.com
- 1/24/19 at 7:08 am – Inbox – bacsmama@gmail.com
- 1/28/19 at 6:18 pm – Inbox – bacsmama@gmail.com
- 2/5/19 at 6:38 pm – Inbox – bacsmama@gmail.com
- 2/26/19 at 7:02 am – Inbox – bacsmama@gmail.com
- 3/5/19 at 7:34 am – Inbox – bacsmama@gmail.com
- 3/11/19 at 8:20 pm – Inbox – bacsmama@gmail.com
- 3/18/19 at 11:23 am – Inbox – bacsmama@gmail.com
- 3/20/19 at 7:20 am – Inbox – bacsmama@gmail.com

Downloads (DL) – 31 personal documents/images, see some examples below:

Name	DL source	Date/Time of DL	Opened
203-3114615-2069135.pdf <sup>2</sup>	https://www.amazon.co.uk/gc/download	9/25/18 at 7:13 am	Yes
2017_Tax Return.pdf	blob:https://ty17prod.stc-prod-us-west-2.tto-prod.a.intuit.co	10/2/18 at 12:17 pm	Yes

<sup>2</sup> \$50 amazon gift card indicated in on-line purchases.

1	Loan Debt.pdf	<a href="https://www.fas.ctc.edu">https://www.fas.ctc.edu</a>	9/18/18 at 12:46 pm	Yes
2	Information	<a href="https://canvas.ewu.edu/courses/1226580/assignments/4458057/submissions/3614876?download=51378799">https://canvas.ewu.edu/courses/1226580/assignments/4458057/submissions/3614876?download=51378799</a>	10/19/18 at 10:40 am	Yes
3	speech			
4	online.docx			
5	Decision Paper for Meghan Pigmon – Fall 2019...	<a href="https://ewu.hobsonsradius.com/ssc/app/PrintDecisionLetterPDF.ssc">https://ewu.hobsonsradius.com/ssc/app/PrintDecisionLetterPDF.ssc</a>	11/27/18 at 9:06 am	Yes
6	2018_TaxReturn.pdf	blob: <a href="https://ty18prod.stc-prod-us-west-2.tto-prod.a.intuit.com">https://ty18prod.stc-prod-us-west-2.tto-prod.a.intuit.com</a>	2/4/19 at 8:49 am (EST)	Yes
7	Admission Letter	blob: <a href="https://my.boisestate.edu/2dd70c81-f0b0-4dd2-9ba0-6b670f3f896f">https://my.boisestate.edu/2dd70c81-f0b0-4dd2-9ba0-6b670f3f896f</a>	2/4/19 at 11:19(EST)	Yes

8  
9 **Personal Documents** – 29 (13 word/16 pdf), see some examples below:

10	Name	Date Created	Date last Modified	Author
11	Direct Plus Loan.pdf	5/8/19 at 7:45 am	NA	NA
12	2017_Tax Return(1).pdf	11/27/18 at 1:37 pm	NA	NA
13	Loan Debt.pdf	9/18/18 at 12:46 pm	NA	NA
14	MLP Resume.docx	3/12/19 at 11:26 am	3/12/19 at 11:39 am	O'Neill
15	Challenge Scholarship Response.docx	12/9/18 at 11:00 am	12/9/18 at 11:01 am	O'Neill
16	Final Paper.docx	3/13/19 at 3:39 pm	3/13/19 at 3:39 pm	O'Neill
17	Character letter with Sue	10/30/16 at 9:51 pm	10/30/16 at 10:11 pm	O'Neill, last saved by Sue Rahr

18 17. Ms. O'Neill indicated in her response to Board staff that she might have logged  
19 onto her work computer occasionally to check on her children's grades, check her bank  
20 statement, or to pay a few bills. She further indicated that she believed that time to be minimal.

21 18. Ms. O'Neill also indicated in her response to Board staff that her children would  
22 sometimes send her documents to edit or something from school that she would edit and return  
23 to them.

1           19.     Ms. O'Neill stated in her response that she has let her son use her work computer  
2 while it was at home during the time he was a CJTC intern and he forgot to bring his computer  
3 home with him.

4           20.     Board staff examined Ms. O'Neill's Outlook emails for the period of March 1,  
5 2017 through March 21, 2019. Board staff found 289 emails (sent/received) which appeared to  
6 be personal in nature. Many of the emails (167) were to/from Chad Peer. Many of the other  
7 emails were related to Ms. O'Neill's three children.

8           21.     The complaint also alleges that Ms. O'Neill used the CJTC credit card to  
9 purchase whatever she would like bypassing the CJTC purchasing and procurement employees  
10 at CJTC.

11          22.     Board staff examined the credit card statements for the credit card issued to CJTC  
12 Administration controlled by Ms. O'Neill for the period of August 2017 through March 2019.  
13 The purpose of the review was to determine if Ms. O'Neill was using the CJTC Administration  
14 credit card to purchase personal and unauthorized items. The Board staff did not find any  
15 apparent unauthorized or personal items purchased.

16          23.     Mr. Elliott indicated in his response to Board staff that Ms. O'Neill has been  
17 approved by the Mr. Rahr for \$10,000 expenditure authority.

18          24.     Mr. Elliott indicated that Ms. O'Neill is the custodian of the CJTC  
19 Administration credit card and that all purchases are reviewed and approved by Ms. Rahr or  
20 Deputy Director Chris Fowler.

21          25.     On April 19, 2018, the State Auditor published an Accountability Audit Report  
22 of CJTC. The report covered the period of July 1, 2013 through June 30, 2017. The report  
23 concluded the CJTC complied with applicable state law, regulations, and its own policies, and  
24 provided adequate controls over the safeguarding of public resources.

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### III. CONCLUSIONS OF LAW

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

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

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.

WAC 292-110-010 Use of state resources, 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.

Based on the evidence reviewed, Ms. O'Neill has used state computer resources and time for her private benefit or gain in violation of RCW 42.52.160. Ms. O'Neill's activities do not meet the exceptions for the use of state resources as permitted in WAC 292-110-010.

1 **IV. FINAL ORDER**

2 1. Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby  
3 ordered that Marisa O'Neill is assessed a total monetary civil penalty of four thousand dollars  
4 (\$4,000) based on her violations of RCW 42.52.160).

5 2. The total amount of four thousand dollars (\$4,000) is payable in full within 90  
6 days of the effective date of this order.

7  
8 DATED this 10<sup>th</sup> day of July 2020.

9  
10  
11 Approved via Virtual Meeting  
12 Shirley Battan, Chair

Approved via Virtual Meeting  
Lisa Marsh, Member

13 Absent  
14 Gerri Davis, Vice-Chair

Approved via Virtual Meeting  
Jan Jutte, Member

15 Approved via Virtual Meeting  
16 Anna Dudek Ross, Member

1  
2 **APPEAL RIGHTS**

3 **RECONSIDERATION OF FINAL ORDER – BOARD**

4 Any party may ask the Executive Ethics Board to reconsider a Final Order. The request  
5 must be in writing and must include the specific grounds or reasons for the request. The request  
6 must be delivered to Board office within 10 days after the postmark date of this order.

7 The Board is deemed to have denied the request for reconsideration if, within 20 days  
8 from the date the request is filed, the Board does not either dispose of the petition or serve the  
9 parties with written notice specifying the date by which it will act on the petition.  
10 RCW 34.05.470.

11 The Respondent is not required to ask the Board to reconsider the Final Order before  
12 seeking judicial review by a superior court. RCW 34.05.470.

13 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

14 A Final Order issued by the Executive Ethics Board is subject to judicial review under  
15 the Administrative Procedure Act, chapter 34.05 RCW. See RCW 42.52.440. The procedures  
16 are provided in RCW 34.05.510 - .598.

17 The petition for judicial review must be filed with the superior court and served on the  
18 Board and any other parties within 30 days of the date that the Board serves this Final Order on  
19 the parties. RCW 34.05.542(2). Service is defined in RCW 34.05.542(4) as the date of mailing  
20 or personal service.

21 A petition for review must set forth:

- 22 (1) The name and mailing address of the petitioner;  
23 (2) The name and mailing address of the petitioner’s attorney, if any;  
24 (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.