

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Fredricka Fisher
Respondent.

No. 2020-016

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, FREDRICKA FISHER, 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 February 11, 2020, the Executive Ethics Board (Board) received a complaint referred by the State Auditor's Office (SAO) alleging that Fredricka Fisher (Ms. Fisher), a supervisor at University of Washington (UW) Medicine Contact Center, may have violated the Ethics in Public Service Act by using state resources for her private benefit and gain by receiving pay for time not worked.

2. The UW Medicine Contact Center (UWMCC) is a shared service organization that provides scheduling support for most outpatient clinics at the University of Washington Medical Center, Harborview Medical Center (HMC), Northwest Hospital and Medical Center and UW

Neighborhood Clinics. The UWMCC occupies three floors of the Financial Center Building located in downtown Seattle. The UWMCC employees are required to use badges on two of the floors.

3. UWMCC employees use the Kronos timekeeping system to clock in and out of their shifts using the following methods: computer login using local workstations, virtual machines or VPN. Virtual machines or VPN can be utilized to clock in remotely. UWMCC does not require staff to use Kronos badge readers to record time and attendance.

4. In July 2017, the UW implemented a new payroll/human resource system for all University employees called Workday. Workday was built based on Supervisory Organizations (SupOrg) that reflects the University's organization hierarchy. Workday was designed to interface with Kronos and because of this interface, the new SupOrg view allowed UWMCC supervisors to view and edit each other's timecards in Kronos. UWMCC management and UWMCC Human Resources (HR) were not aware of these edit capabilities until they began investigating the hotline complaints.

5. This function or ability to allow UWMCC supervisors to view and edit each other's timecards in Kronos was corrected in March 2018.

6. Ms. Fisher has worked for the UW Medical Center since 2003 and on May 16, 2011, she was appointed into her current position of Contact Center Supervisor.

7. UWMCC supervisors typical job duties include: coordinating and providing patient support services such as patient registration, scheduling appointments, referral scheduling and coordination, and insurance verification. They also supervise staff, approve staff leave requests, conduct performance evaluations, and recommend disciplinary action. This position is overtime eligible at straight time and a part of the SEIU Local 925 bargaining unit.

8. On November 16, 2017, the Director of UW Medicine Internal Controls notified UW Internal Audit that Ms. Fisher was not working her required hours.

9. To evaluate the complaints, UW investigators performed a review for calendar year 2017, which included comparing Kronos log in and log out times with building badge times and computer log in and out times. The UW investigators reviewed days when edits were made in Kronos to record or change log in and out times. In addition, they reviewed days when the logins were from a location other than the employee's assigned computer.

10. The UW investigators found that the Kronos login activity did not align with badge data and computer log in and out information for Ms. Fisher. The investigators also reviewed other supervisors' timekeeping activities and they did not see the same patterns. The UW investigation questioned 49.5 hours for Ms. Fisher.

11. In 2017, Ms. Fisher made 114 entries to her time card that was not supported by badge or computer login data. Of these 114 entries, 26 represented missed clock ins and outs.

12. The UW IAD investigation concluded that Ms. Fisher was paid for at least 49.5 hours of work she did not perform for a total overpayment of \$1,574.01.

13. On August 1, 2019, Ms. Fisher submitted 46.71 hours of vacation leave in repayment of the 1,574.01 overpayment.

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:

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

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, Ms. Fisher was in a supervisory position. In the matter at hand, it is a mitigating factor that she received a written reprimand and was required to make reimbursement to the agency for the \$1,574.01 she was paid for time not worked.

D. STIPULATION AND AGREED ORDER

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

I. CERTIFICATION

I, Fredricka Fisher, 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.

F. Fisher *9-3-20*
FREDRICKA FISHER Date
Respondent

Presented by:

K. Reynolds *9/11/2020*
KATE REYNOLDS Date
Executive Director

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 11th day of September, 2020

Approved via Virtual Meeting
Shirley Battan, Chair

Absent
Gerri Davis, Vice-Chair

Approved via Virtual Meeting
Lisa Marsh, Member

Approved via Virtual Meeting
Anna Dudek Ross, Member

Approved via Virtual Meeting
Jan Jutte, Member

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

Fredricka Fisher, Respondent Date