

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

3 In the Matter of:

EEB Case No. 2020-025

4 Andrew Braddock,

FINAL ORDER

5 Respondent  
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7 **I. PROCEDURAL HISTORY**

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9 On September 11, 2020, the Executive Ethics Board (Board) found reasonable cause to  
10 believe that the Respondent, Andrew Braddock (Mr. Braddock) violated the Ethics in Public  
11 Service Act while employed as an Administrative Assistant 3 (AA3) with Washington State  
12 University (WSU). Notice of the Reasonable Cause Determination and the right to request a  
13 hearing was served upon Mr. Braddock by regular mail and certified mail on September 14,  
14 2020. Mr. Braddock failed to respond to the Reasonable Cause Determination within 30 days  
15 as required by WAC 292-100-060(2).

16 The Board entered an Order of Default on January 8, 2021. On January 11, 2021, Board  
17 staff provided Mr. Braddock with notice of the Board's Order of Default by regular and  
18 certified mail.

19 Pursuant to WAC 292-100-060(4) Mr. Braddock was allowed 10 days to request  
20 vacation of the Order of Default. Mr. Braddock has not moved to vacate the order entered on  
21 January 8, 2021.

22 **II. FINDINGS OF FACT**

23 1. According to the State Auditor's Office (SAO), the WSU Internal Audit  
24 Department notified their office of potential losses of public funds. The SAO reviewed WSU's  
25 final investigation reports and selected four cases totaling misappropriation of \$12,238.55 that  
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1 occurred between August 2014 and February 2019. According to the SAO, they reviewed  
2 WSU's investigation for each of the cases and agree with the conclusions reached.<sup>1</sup>

3         2. According to the Chief Audit Executive for WSU Heather Lopez (Ms. Lopez),<sup>2</sup>  
4 on March 15, 2019, their office received a complaint of suspected abuse of state resources. The  
5 complaint, naming Mr. Braddock, alleged that Mr. Braddock had misrepresented time reported  
6 as worked.

7         3. According to the Washington State University Investigative Report (WSUIR),  
8 Mr. Braddock has been an employee of UAO since March 1, 2015. Mr. Braddock held a  
9 classified position with a regular work schedule of Monday-Friday 8am – 5pm. His duties  
10 included supporting the travel and research needs of his supervisor and others in the office,  
11 including employees from another unit. This entailed arranging and managing travel activity,  
12 pulling information on gift use agreements, pulling and organizing data reports, and other  
13 duties as needed.

14         4. According to the WSUIR, during an interview, Mr. Braddock stated his regular  
15 work schedule was around 8am, 8:30am, or 9am through 4pm, 4:30pm or 5pm, or later if he  
16 came in late or took a long lunch. The WSUIR stated that on the day of the interview, Mr.  
17 Braddock did not show up to work until 9 am. He was asked if he advised his supervisor that  
18 he would be late, or at least not in the office until 9 am and he said he had not. He stated a firm  
19 schedule and communication of variances had not been an expectation communicated to him.  
20 The WSUIR stated that Mr. Braddock's immediate supervisor traveled extensively and was  
21 not much of a physical presence in the office. They spoke with Mr. Braddock's supervisor who  
22 admitted she did not know when Mr. Braddock actually showed up to work or how late he  
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24         <sup>1</sup> One of the four cases involved two employees in the same office. Board staff initiated complaints on all  
25 five of the individuals named in the WSU/SAO investigations.

26         <sup>2</sup> Author of the Washington State University Investigative Report (WSUIR) and Ethics Advisor for  
WSU.

1 stayed. She said he did not regularly communicate this to her, but she did state ‘when I am  
2 traveling I am doing my work and I expect him, and others that report to me, to do their job’.

3 5. According to the WSUIR, quality of performance was not in the scope of their  
4 review. Mr. Braddock, as a classified employee, would be expected to hold scheduled hours,  
5 and within those hours, perform assigned duties. If he was not present for his scheduled hours,  
6 and no alternate work arrangement can be presented, then the lack of presence should be  
7 reported as time not worked (annual leave, sick leave, compensatory time or leave without  
8 pay, as applicable). The WSUIR stated that their review focused on reported and not reported  
9 hours as they impacted leave balances, and, potentially, amounts paid to Mr. Braddock.

10 6. According to the WSUIR, they interviewed four individuals with proximity or  
11 access to observe Mr. Braddock’s physical presence at his assigned workplace. Two  
12 individuals provided an accounting of arrival to office, lunch, and departure for about a six-  
13 week period.

14 7. According to the WSUIR, they utilized Central ITS security resources to pull  
15 email and calendar accounts associated with WSU NID andrew.braddock. The WSUIR states  
16 that they also received, from WSU Advancement Services ITS unit, system access logs that  
17 identify by date and time when Mr. Braddock’s NID<sup>3</sup> logged on and off in the system. The  
18 WSUIR states that log-in is necessary to access any applications on the WSU-assigned  
19 computer. They determined the system logs were not completely reliable as Mr. Braddock  
20 consistently did not log-off the system – thus, they could identify when he logged on each day  
21 (most consistently between 8:50 am and after 9 am) but could not ascertain to how long for  
22 each day without a defined log-off time.

23 8. According to the WSUIR, email activity was reviewed to identify if notices  
24 were sent by Mr. Braddock to his supervisor or others about absences. Email, calendar and  
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26 <sup>3</sup> Network Identification

1 interviews were compared to time reports. System access logs were used for the review on a  
 2 limited basis – and only to support activity identified through other sources.

3 9. According to the WSUIR, they first recalculated all leave accruals from date of  
 4 hire, March 1, 2015 through February 2019 time reports. The WSUIR stated that a significant  
 5 carryforward error was noted from the December 2017 time report, impacting Mr. Braddock’s  
 6 sick leave balance by 45 hours (over-reported).

7 10. According to the WSUIR, the following hours were questioned.

	Hours	
	Annual	Sick
Feb 2019 End Balance Before Review	202.4	163
12/2017 - Carryforward error		-45
8/2015 - vacation on calendar but not reported on time report	-24	
3/2018 - vacation on calendar, reported 32 of 40 as sick leave	-40	32
3/5/2018 - 8 hours sick not reported		-8
6/11/2018 - 8 hours sick not reported		-8
8/1/2018 - 8 hours sick not reported		-8
12/2018 - 3.75 hours questioned due to not working full days	-3.75	
12/2018 - 12.75 hours sick not reported		-12.75
2/2019 - 2 'snow days' claimed work from home but no support	-16	
Required Adjustments	-83.75	-49.75
Feb 2019 End Balance After Review	118.65	113.25

11 11. The WSUIR stated that all required adjustments were discussed with Mr.  
 12 Braddock. The WSUIR stated that Mr. Braddock did not contest the findings or the  
 13 adjustments to his hours.

14 12. According to the WSUIR, during attempts to reconcile reported time with email  
 15 and work patterns, they noted email activity that did not fit appropriate use.

1           13.     According to the WSUIR, once the .pst file for andrew.braddock was obtained,  
2 they saved the file to their shared drive and made a working copy. The size of the original file  
3 was 7,464,569 KB (7.1GB). The WSUIR stated that this is a very large file for an employee of  
4 four years indicating either file maintenance is not occurring (i.e. files that are no longer  
5 needed for retention are not deleted regularly) and/or there are a number of large files that may  
6 indicate pictures or video. The WSUIR stated that they found more of the former; the Inbox  
7 folder held over 46,000 files (over 16,000 of which were unread). According to the WSUIR,  
8 this folder alone was almost 5.3GB and the high number of unread emails, including those  
9 from coworkers or WSU units, invites questions of productivity and email management.  
10 According to the WSUIR, they applied a number of word searches of all email activity across  
11 all folders and noted the following two types of activity that violate University policies on  
12 either de minimis use or prohibited uses:

- 13           • 687 email messages in Inbox folder from political sources – date range August  
14           11, 2015 to present. Presence in wsu.edu Outlook, including an email  
15           confirmation thanking employee for his donation to the political party – dated  
16           August 11, 2015) indicates wsu.edu and potentially WSU network ID were  
17           used as source/point of contact for the political organization sending the emails.
- 18           • 867 Venmo fund exchange confirmations – date range March 25, 2015 to  
19           present. Venmo is a digital wallet used to enable quick transfer of funds  
20           between individuals. Although they noted a few occurrences of this activity  
21           between coworkers or as related to work social events, even if deeming some  
22           use for official work purpose, in the opinion of the WSU investigator, the noted  
23           use far exceeds de minimis. Presence in wsu.edu Outlook indicates confirmed  
24           use of wsu.edu work email as point of contact for personal monetary  
25           exchanges.

26           14.     Board staff reviewed Mr. Braddock’s emails and were able to confirm the  
following:<sup>4</sup>

- Over 600 emails sent to Mr. Braddock’s WSU state email address from [venmo@venmo.com](mailto:venmo@venmo.com) from October 1, 2015 through March 18, 2019. Included in those emails were payments submitted for Comcast, Star Wars and payments to what appears to be Mr. Braddock’s roommate for the “Electricity Bill.”

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<sup>4</sup> Board staff limited the search to the Board’s jurisdiction of 5 years.

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- Over 700 emails sent to Mr. Braddock's state email address from info@BernieSanders.com from October 1, 2015 through March 18, 2019 with information about campaign, campaign events and requesting donations to the campaign.

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### III. CONCLUSIONS OF LAW

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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 Andrew Braddock, whose actions occurred while he was a state employee. Based on the evidence reviewed, Mr. Braddock has used state computer resources and time for his private benefit or gain in violation of RCW 42.52.160. Mr. Braddock's activities do not meet the exceptions for the use of state resources as permitted in WAC 292-110-010.

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

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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.

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WAC 292-110-010 Use of state resources, prior to April 1, 2016, states in part:

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**(2) The following are permitted uses:**

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- (a) Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute.
  - (b) An agency head or designee may authorize a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.
  - (c) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.
  - (d) A state officer or employee may make an occasional but limited personal use of state resources 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 officer's or employee's official duties; and
    - (v) The use does not compromise the security or integrity of state property, information, or software.

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

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

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

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

(ii) Any use is brief;

5 (iii) Any use occurs infrequently;

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

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

7 (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;  
8 and

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

10 3. The Board is authorized to impose sanctions for violations to the Ethics Act  
11 pursuant to RCW 42.52.360.

12 4. In determining the appropriateness of the civil penalty, the criteria in WAC 292-  
13 120-030 have been reviewed.

#### 14 IV. FINAL ORDER

15 Based on the foregoing:


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


19 DATED this 12th day of March 2021.

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21 Shirley Battan, Chair

  
Gerri Davis, Vice Chair

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23 Anna Ross, Member

  
Jan Jutte, Member

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25 Earl Key, Member

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3 **APPEAL RIGHTS**

4 **RECONSIDERATION OF FINAL ORDER – BOARD**

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

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

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

14 **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

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

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

22 A petition for review must set forth:

- 23 (1) The name and mailing address of the petitioner;  
24 (2) The name and mailing address of the petitioner’s attorney, if any;  
25 (3) The name and mailing address of the agency whose action is at issue;  
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1 (4) Identification of the agency action at issue, together with a duplicate copy,  
2 summary, or brief description of the agency action;

3 (5) Identification of persons who were parties in any adjudicative proceedings that led  
4 to 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.

11 The 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.