

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Kenneth Davis
Respondent.

No. 2021-008

STIPULATED FACTS,
CONCLUSIONS OF LAW AND
AGREED ORDER

THIS STIPULATION is entered into by Respondent, KENNETH DAVIS, 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 9, 2021, the Executive Ethics Board (Board) received a complaint alleging that Kenneth Davis (Mr. Davis), Maintenance Mechanic 4 for the Department of Social and Health Services (DSHS) Developmental Disability Administration (DDA), may have violated the Ethics in Public Service Act. The complaint alleged that Mr. Davis provided a special privilege to a coworker by providing them the use of a state vehicle to commute into the office.

2. Mr. Davis has worked for DSHS since April 16, 2012, and has been in his current position as a Maintenance Mechanic 4 since April 16, 2018.

3. The complaint alleges that on November 1, 2020, Mr. Davis allowed his girlfriend, Virginia Belsheim (Ms. Belsheim), the use of the shop van to commute to her state office on Monday, November 2, 2020.

4. Mr. Davis indicated in a response to Board staff that on or about October 29, 2020, he called his supervisor Leland Elliott (Mr. Elliott) seeking permission for Ms. Belsheim the use of the shop van to commute into her office on November 2, 2020.

5. Mr. Davis indicated that Ms. Belsheim's personal vehicle had been damaged when it was struck by a tree branch during a winter storm.

6. Mr. Davis indicated that Ms. Belsheim works in the same department within the Facilities, Finance and Analytics Administration of DSHS so he believed that it would be appropriate to loan her the van to commute into the office.

7. Mr. Davis indicated in a response that on the morning of Sunday, November 1, 2020, Thomas Dummer (Mr. Dummer), Maintenance Mechanic for DSHS, and a direct report to Mr. Davis, picked him up at his home and dropped him off at the shop. Mr. Davis then drove the shop van to Ms. Belsheim's residence and dropped it off. Mr. Dummer followed him to Ms. Belsheim's residence and drove him back to his residence. Mr. Davis further indicated that Ms. Belsheim did not use the van until November 2, 2020.

8. Mr. Dummer indicated in his response to Board staff that Mr. Davis was his supervisor at the time and still is and that in November of 2020 he and Mr. Davis were roommates.

9. Mr. Dummer indicated that he doesn't remember the exact details but that he may have given Mr. Davis a ride into the shop on November 1 and that he may have given him a ride home from Ms. Belsheim's residence but that was the extent of his involvement.

10. Mr. Dummer indicated that at no time was he directed to assist Mr. Davis, he was asked as a friend and helped out as a friend.

11. Mr. Davis indicated that Ms. Belsheim used the vehicle for one day and then he picked it up either late that Monday or early on Tuesday morning at her house. He left his vehicle at her house and drove the van directly back to the shop.

12. Mr. Davis indicated that he was working on a project in Kennewick that week and he let Ms. Belsheim use his personal vehicle. When he returned on November 6, 2020, Mr. Dummer drove him to Ms. Belsheim's residence to pick up his vehicle.

13. Mr. Elliott indicated in a response to Board staff that Mr. Davis spoke with him prior to November 2, 2020, concerning Ms. Belsheim's use of the shop van to travel to her state office building to work because her state issued laptop computer was not working from her home.

14. Mr. Elliott indicated that Mr. Davis told him that Ms. Belsheim's personal vehicle was being repaired and that she was not able to use it. Mr. Elliott further indicated that because Ms. Belsheim was a part of the same work unit, he gave Mr. Davis permission for Ms. Belsheim to use the shop van to drive into her office.

15. Mr. Elliott indicated in a response that he was aware that Mr. Davis and Ms. Belsheim were in a dating relationship but that was not something that crossed his mind when Mr. Davis asked for permission for her to use the van.

16. Ms. Belsheim indicated that she was working from home and was having problems with her work issued laptop and couldn't get logged in. She indicated that she was in the middle of Strategic Planning and she needed access to Share Point and the "L" Drive to access the files she needed.

17. Ms. Belsheim indicated that her personal vehicle had been damaged by a falling tree and was not drivable. Ms. Belsheim further indicated that she asked Mr. Davis if he could help her out.

18. Ms. Belshem indicated that she did not contact her supervisor, Ms. Black, regarding the use of a state vehicle to commute into the office.

B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from securing Special Privileges. RCW 42.52.070 – Special privilege states:

Except as required to perform duties within the scope of employment, no state officer or state employee may use his or her position to secure special privileges or exemptions for himself or herself, or his or her spouse, child, parents, or other persons.

2. Based on the stipulated facts above, Mr. Davis used his position to secure a special privilege in violation of RCW 42.52.070.

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. In the matter at hand, it is a mitigating factor that Mr. Davis sought and received permission by his supervisor prior to any violation.

D. STIPULATION AND AGREED ORDER

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Kenneth Davis 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. Kenneth Davis 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. Kenneth Davis further agrees that the evidence available to the Board is such that the Board may conclude they 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. Kenneth Davis waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or their 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 Kenneth Davis 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. Kenneth Davis 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 Kenneth Davis 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 Kenneth Davis 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 Kenneth Davis 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, Kenneth Davis 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, Kenneth Davis 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. Kenneth Davis agrees to pay a civil penalty in the amount of five-hundred dollars (\$500) associated with violations of, RCW 42.52. The Board agrees to suspend two-hundred and fifty dollars (\$250) on the condition that Kenneth Davis 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 two-hundred and fifty dollars (\$250) 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.

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.


KENNETH DAVIS
Respondent

10/28/21
Date

Presented by:


KATE REYNOLDS
Executive Director

11/11/21
Date

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 12th day of November, 2021

Approved via virtual Meeting
Shirley Battan, Chair

Approved via virtual Meeting
Geri Davis, Vice-Chair

Approved via virtual Meeting
Jan Jutte, Member

Absent
Earl Key, Member

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

Kenneth Davis, Respondent Date