

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Pamela Derrick

Respondent.

No. 2021-037

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Pamela Derrick and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS 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 August 18, 2021, the Executive Ethics Board (Board) received a complaint alleging that Pamela Derrick (Ms. Derrick), former IT Application Developer for the Department of Labor and Industries (LNI), may have violated the Ethics in Public Service Act. The complaint alleged that Ms. Derrick used her state computer and email account to send information about a strike for Walkout Wednesday regarding the Governor's Vaccine Mandate to 236 LNI employees using an agency distribution list in violation of RCW 42.52.160, Use of persons, money, or property for private gain.

2. As a result of the complaint received by the Board, on August 18, 2021 LNI initiated an internal investigation into the allegations on September 13, 2021.

3. Ms. Derrick has worked for the state of Washington since January 28, 1988 and for LNI since April 9, 1990. At the time of the allegations, she was an IT Application Developer for the Department of Labor and Industries.

4. On August 9, 2021 at 2:11 pm, Governor Inslee sent an email to all state employees that he was issuing a proclamation that all state employees who work in the executive cabinet agencies must be fully vaccinated against COVID-19 by October 18, 2021, along with on-site contractors and volunteers.

5. On August 9, 2021 at 3:14 pm, Joel Sacks, Director of LNI, sent out an email to all LNI employees indicating that the LNI leadership team supported the Governor's decision to require COVID-19 vaccinations for all state employees.

6. Ms. Derrick indicated in her response to Board staff that she has been working from home since March 2020 and that all of her co-workers and business partners were working from home as well.

7. Ms. Derrick also indicated in her response that on August 10, 2021, she had a training session with co-workers and after the session, two of her co-workers stayed back and asked her to stay back as well. She was asked by her co-workers if she had been vaccinated, she replied "no." She was then asked if she planned on getting vaccinated, she replied, "not yet." The co-workers told her of their concerns regarding safety, pre-existing health conditions, vetting, losing their jobs, how hard they had worked to get where they are, and how defeated they felt after getting that message from the Governor.

8. Ms. Derrick indicated in her response to Board staff that she was looking into grass-roots groups of other people around the nation that were also concerned about mandatory vaccinations in their states and that’s where she found out about, “Walkout Wednesday.”<sup>1</sup>

9. Ms. Derrick indicated in her response that on August 11, 2021, she attempted to contact her union to see what they were going to do to fight for her right to make her own health choices. She indicated in her response that she was referred back to her HR department.

10. Ms. Derrick indicated that her HR department didn’t really know much other than the dates to be in compliance before October 18, 2021. At the time, HR didn’t even know what the exemptions were going to look like for medical or religious reasons.

11. Ms. Derrick indicated in her response that after she contacted her HR department, she decided to participate in the “Walkout Wednesday” event and sent an email message to her co-workers to let them know that she was doing it. Ms. Derrick further indicated in her response that she didn’t think of this as political but just a way to let her co-workers and friends know where she stood on the issue.

12. Ms. Derrick indicated in her response to Board staff that she sent the email (see below) on August 11, 2021 at 11:45 am, she then walked down to the main road with a handmade sign. Ms. Derrick further indicated that the speed limit on the road in front of her house is 50 MPH, so not many people even looked at her.

**From:** Derrick, Pamela L (LNI) <DERR235@LNI.WA.GOV>  
**Sent:** Wednesday, August 11, 2021 11:45 AM  
**To:** LNI DL Information Technology <Division8@LNI.WA.GOV>; LNI DL Insurance Services Technical Team <InsSvcTechTeam@LNI.WA.GOV>; LNI DL Employer Services TSU <EmployerServicesTSU@LNI.WA.GOV>  
**Cc:** Governor Jay Inslee <GovernorJayInslee@governor.wa.gov>; Sacks, Joel (LNI) <jsack235@LNI.WA.GOV>; Marty, David (LNI) <mdjad235@LNI.WA.GOV>; Sapinoso, Maribeth (LNI) <msapm235@LNI.WA.GOV>; Gupta, Sumit (LNI) <GUP235@LNI.WA.GOV>; Parsons, Dan (LNI) <dpar235@LNI.WA.GOV>; Normoyle, Heather (LNI) <hnorm235@LNI.WA.GOV>; Matt Reiter <mreiter@wfsa.org>; Springer, Anne (LNI) <ASPR235@LNI.WA.GOV>  
**Subject:** #WalkoutWednesday

Hello to all:

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<sup>1</sup> Walkout Wednesday – was created by the National Health Freedom Coalition in opposition to the COVID-19 vaccination mandates.

I will be away from my home office today at noon to stand in National Solidarity against forcing individuals to get vaccinations.

#WalkoutWednesday

Thank you, and have a blessed day.

Pam Derrick  
Claims Imaging Operations and ECS | Web & Claims Applications Core Team  
Information Technology  
Department of Labor & Industries  
(360) 902-9115 | [Pamela.Derrick@lni.wa.gov](mailto:Pamela.Derrick@lni.wa.gov)  
Innovation ■ Partnership ■ Support  
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13. Ms. Derrick indicated in her response that it was too hot to stay on the side of the road for long so she was back in her house before 12:30.

14. Ms. Derrick indicated that she has a one-hour lunch break, which was 11:30 am to 12:30 pm.

15. Ms. Derrick told LNI investigators that when she or other staff are going to be away from their desk they would send out an email so that they (co-workers) would be aware. Therefore she sent the email to all LNI IT employees to advise them that she was going to be away from her desk at noon.

16. Board staff's review of Ms. Derrick's Outlook emails confirmed that notifying co-workers when they (LNI IT employees) would be away from their home workstations seemed to be a normal process for Ms. Derrick and other LNI employees.

17. Ms. Derrick told LNI investigators that she chose to let all of IT know what she was doing, meaning participating in the "Walkout Wednesday" event, so others would know where she stands regarding the vaccine mandate, and to let them know if they felt the same they were not alone.

18. According to LNI, the original email sent on August 11, 2021, from Ms. Derrick's state Outlook account was sent to 265 LNI employees in the three email groups. See below:

- LNI DL Information Technology<Division R@LNI.WA.GOV - 232
- LNI DL Insurance Service Technical Team< InsSysTechTeam@LNI.WA.GOV – 27
- LNI DL Employer Services TSU<EmployerServicesTSU@LNI.WA.GOV - 6

In addition, nine other state workers including Governor Inslee were cc'ed.

19. On or about September 20, 2021, Board staff received a copy Ms. Derrick's Outlook emails from LNI for the period August 14, 2019 through September 15, 2021. Board staff used Magnet Forensic, Axiom 4.2 software to process the Outlook emails for review. See details of the email review below:

- Of the 265 LNI employees who received the original email twenty responded with twelve (12) responded using the "reply all" function. One of the "reply all" replies was to advise employees not to reply using the "reply all" function.
- Ms. Derrick replied to ten of those replies.

### B. CONCLUSIONS OF LAW

1. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from Use of persons, money or property for private gain. RCW 42.52.160 states:

No state officer or state employee may employ or use any person, money, or property under the officers or employees 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.

2. 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 and they were continuous in nature. In the matter at hand, there are no mitigating factors.

### **D. STIPULATION AND AGREED ORDER**

1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Pamela Derrick 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. Pamela Derrick 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. Pamela Derrick 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. Pamela Derrick 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 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. Pamela Derrick 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 Pamela Derrick 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 Pamela Derrick 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 Pamela Derrick 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, 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, Pamela Derrick 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. Pamela Derrick agrees to pay a civil penalty in the amount of seven hundred and fifty dollars (\$750) associated with violations of RCW 42.52.

12. The civil penalty in the amount of seven hundred and fifty dollars (\$750) 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, Pamela Derrick, 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.

*Pamela L. Derrick*

*3-29-2022*

\_\_\_\_\_  
Pamela Derrick  
Respondent

\_\_\_\_\_  
Date

Presented by:

*K. Reynolds*  
\_\_\_\_\_  
KATE REYNOLDS  
Executive Director

*5/3/2022*  
\_\_\_\_\_  
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 13th day of May 2022.

Approved via Zoom  
Shirley Battan, Chair

Approved via Zoom  
Jan Jutte, Vice Chair

Absent  
Gerri Davis, Member

Approved via Zoom  
Earl Key, Member

\* I, Pamela Derrick, accept/do not accept (circle one) the proposed modification(s).

\_\_\_\_\_  
Pamela Derrick, Respondent                      Date