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6 **BEFORE THE WASHINGTON STATE EXECUTIVE ETHICS BOARD**

7 IN THE MATTER OF:

OAH NO. 07-2023-AGO-00060

8 AMY HAGOPIAN,

EEB NO. 2022-047

9 Respondent.

10 FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND FINAL ORDER

11 **I. PROCEDURAL HISTORY**

12 1.1 On or about December 10, 2022, the Executive Ethics Board (the Board)
13 received an anonymous complaint that alleged Dr. Amy Hagopian, a professor with the
14 University of Washington (UW), may have violated the Ethics in Public Service Act
15 (Ethics Act), RCW 42.52. Declaration of Justin Cotte, ¶ 3, Ex. 1. The complaint alleged
16 Dr. Hagopian used their “UW listserv account” to solicit donations and political support. *Id.*

17 1.2 On March 13, 2023, the Board found reasonable cause to believe Dr. Hagopian
18 violated RCW 42.52, as set forth in the Investigative Report and Board Reasonable Cause
19 Determination (Reasonable Cause Determination).

20 1.3 After due and proper notice, on October 11, 2024, the Board held a hearing via
21 Zoom on Board Staff’s Motion for Summary Judgment.. ALJ TJ Martin from the Office of
22 Administrative Hearings conducted the proceedings, and Board Chair Kelli Hooke, along with
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1 members Jan Jutte, Megan Abel, Cam Comfort, and David Hankins were present. John Meader,
2 Assistant Attorney General and legal advisor to the Board was also present.

3 1.4 Julia Eisentrout, Assistant Attorney General for Board Staff, argued on behalf of
4 Board Staff. The Board's Executive Director, Kate Reynolds, and other Board Staff members
5 were present.

6 1.5 Kenneth Flaxman, attorney for Dr. Hagopian, appeared and argued on behalf of
7 Dr. Hagopian. Dr. Hagopian was also present.

8 1.6 Board Staff filed the following documents:

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- 10 ● Board Staff's Motion for Summary Judgment;
 - 11 ● Declaration of Justin Cotte in Support of Motion for Summary Judgment,
with attached Exhibits 1-11; and
 - 12 ● Board Staff's Reply to Respondent's Response to Board Staff's Motion for
Summary Judgment.

13 1.7 Respondent filed the following documents:

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- 15 ● [Dr] Hagopian Response to Board Staff's Motion for Summary Judgment;
 - 16 ● Declaration of Amy Hagopian; and
 - 17 ● Respondent's Exhibits 1-5.

18 1.8 The proceedings were recorded and open to the public.

19 1.9 The hearing adjourned on October 11, 2024.

20 Based on the evidence presented, the Board enters the following Findings of Fact,
21 Conclusions of Law, and Final Order:

22 II. FINDINGS OF FACT

23 2.1 UW hired Dr. Hagopian in 1983 as program manager of the Occupational

1 Medicine Clinic at Harborview Medical Center. Hagopian Decl., ¶ 2. After holding various
2 positions and obtaining their PhD, Dr. Hagopian became a professor; the position they held at
3 the time of this complaint and until they retired. Hagopian Decl., ¶ 4. Dr. Hagopian’s position
4 as “Assistant Professor without tenure due to funding” specifically included the responsibilities
5 of teaching, research and service of the Department of Global Health, curriculum development,
6 and student advising and mentorship. Cotte Decl., ¶ 8, Ex. 4.

7 2.2 Dr. Hagopian co-moderates the “Faculty Issues and Concerns” email list hosted
8 by UW, known as the American Association of University Professor (AAUP) email group list.
9 Hagopian Decl., ¶ 11; *see also* Cotte Decl., ¶ 6, Ex. 2. The email group list is provided by UW
10 to the faculty organization and “encourages active discussion of higher education issues and
11 faculty rights.” Cotte Decl., ¶ 6, Ex. 2. As co-moderator, Dr. Hagopian must approve a posting
12 before it can be electronically transmitted by email to persons who have subscribed to the faculty
13 listserv. Hagopian Decl. ¶ 14.

14 2.3 On December 10, 2022, the Board received a complaint that alleged Dr. Hagopian
15 used their “UW listserv account” to solicit donations and political support. Cotte Decl., ¶ 3, Ex.
16 1. Attached to the complaint was a copy of an email forwarded by Dr. Hagopian to the AAUP
17 email group list. Cotte Decl., ¶¶ 3-4, Ex. 1. Dr. Hagopian’s email stated:

18 *I’m passing along this message about the UC working strike I received on a public health*
19 *professional list server. I thought it would interest UW faculty on the AAUP list.*

20 *Amy Hagopian*
21 *Professor*
22 *University of Washington School of Public Health*
23 *hagopian@uw.edu*

Id.

1 The body of the email concerned a strike of University of California academic workers,
2 included a link to the website for the group/organization for striking workers, and a request to
3 “[c]onsider donating to [the] strike fund” which also included a link to a website. Cotte Decl., ¶
4 4, Ex. 11. Board Staff clicked on the link to donate, and the site stated that the academic workers
5 at the University of California had organized, were attempting to unionize and bargain for four
6 separate contracts, and also included a link to join and/or donate. Cotte Decl., ¶ 5. Board Staff
7 opened an investigation into the complaint. Cotte Decl., ¶ 3.

8 2.4 Richard Cordova, Executive Director of UW Internal Audit, stated that
9 Dr. Hagopian’s email appeared consistent with the purpose of the AAUP Issues and Concerns
10 email list. Cotte Decl., ¶ 6, Ex. 2.

11 2.5 As part of the investigation, Board Staff requested a copy of Dr. Hagopian’s
12 emails from UW for November 19, 2022 – December 19, 2022, although UW provided emails
13 from a broader date range. Cotte Decl., ¶ 7, Ex. 3. Using Magnet Axiom Software to process
14 Dr. Hagopian’s emails, Board Staff reviewed more than two thousand emails, most of which
15 were not work related, all retrieved from Dr. Hagopian’s UW email account. Cotte Decl., ¶ 9,
16 Exs. 5, 6. The initial report was more than 16,000 pages, but a second, shorter report was just
17 over 5,000 pages. Cotte Decl., ¶ 10, Ex. 6.

18 2.6 The Magnet report showed that Dr. Hagopian received the following emails:

- 19
- 20 ● Hundreds of emails from political mailing lists, all related to the Democratic
21 party, including the following sites and organizations: traindemocrats.org; end
22 citizensunited.org; stoprebublicans.com; Democracy Now; Democratic
23 Legislative Campaign Committee (DLCC); Progressive Democrats of America
(PDA);
 - Emails for travel and hotels, including Airfarewatchdog, Delta Airlines, Alaska
Airlines, Marriott Bonvoy, Westin, VRBO;

- Emails with specific account information for Dr. Hagopian, including eBay, PayPal, and WSECU;
- Emails for entertainment including Netflix; and
- Emails from various retail websites, including Levi’s, Etsy, Gardener’s Supply, Amazon, Yoga Direct, Rockport, Redbubble and Rugman, among others.

Cotte Decl., ¶ 10, Ex. 6, App. 1.

Some of the emails from companies were specifically addressed to Dr. Hagopian, including emails from Delta, Netflix, Marriott Bonvoy, and Westin Resorts. Cotte Decl., ¶ 10, Ex. 6. Additionally, a number of the emails included notifications that indicated Dr. Hagopian had opted into receiving the communications:

Etsy:

You are receiving this email because you registered on Etsy.com with this email address. (Ex. 6, p. 158);

Netflix:

This message was mailed to [hagopian@u.washington.edu] by Netflix as part of your Netflix membership. (Ex. 6, p. 160);

PayPal:

This email was sent to hagopian@u.washington.edu because your email preferences are set to receive “News and Promotions.” (Ex. 6, p. 182-83);

GAT Deals:

You are receiving this email because you opted into one of our contests or directly through [gap] news site. (Ex. 6, p. 223);

Seattle City Club:

You’re receiving this e-mail because you opted in to receive news and updates from us.

1 Thanks! (Ex. 6, p. 398);

2 **Yoga Accessories:**

3 You received this email because you've signed up to receive weekly updates from
4 yogaaccessories.com (Ex. 6, p. 419);

5 **The Needlepointer:**

6 You were subscribed to the newsletter from the Needlepointer (Ex. 6, p. 427); and

7 **Stylin Online:**

8 This email was sent to you by StylinOnline. You received this message because you
9 registered to receive e-mail messages from StylinOnline.com.(Ex. 6, p. 124).

10
11 Dr. Hagopian acknowledges that they did use their email to sign up for communications,
12 as they state that their job as a public health researcher specifically required them to keep abreast
13 of local, national, and international news. Hagopian Decl., ¶ 24.

14 2.7 Dr. Hagopian does not deny that they received the emails in question. Cotte Decl.,
15 ¶ 12, Ex. 8.

16 **III. CONCLUSIONS OF LAW**

17 3.1 The Board has jurisdiction to hear this matter pursuant to RCW 42.52.360(1),
18 which authorizes the Board to enforce the Ethics Act with respect to employees in the executive
19 branch of state government, including employees of public institutions of higher education. The
20 Board has jurisdiction over Dr. Hagopian even though Dr. Hagopian has since retired. The
21 conduct at issue took place while Dr. Hagopian worked as a state employee. The complaint was
22 filed in accordance with RCW 42.52.410, the Board found reasonable cause pursuant to
23 RCW 42.52.420, and an adjudicative proceeding was conducted pursuant to RCW 42.52.430

1 and RCW 42.52.500. All the required procedural notices have been provided. The Board has the
2 authority to accept anonymous complaints. The Board also is not limited to the facts alleged in
3 a complaint and can accept evidence such as evidence of improper emails from outside the
4 timeframe alleged in the original complaint. The Board also is authorized to charge a respondent
5 with violations of the Ethics Act on its own initiative, so a complaint is not required for the Board
6 to have jurisdiction.

7 3.2 WAC 10-08-135¹ provides that a motion for summary judgment may be granted
8 and an order issued if the written record shows that there is no genuine issue as to any material
9 fact and that the moving party is entitled to judgment as a matter of law. “A material fact is one
10 upon which the outcome of the litigation depends.” *Hudesman v. Foley*, 73 Wn.2d 880, 886,
11 441 P.2d 532 (1968). Summary judgment is proper if (1) there is no genuine issue of material
12 fact, (2) reasonable persons could reach but one conclusion, and (3) the moving party is entitled
13 to judgment as a matter of law. *Ellis v. City of Seattle*, 142 Wn.2d 450, 458, 13 P.3d 1065 (2000);
14 *see also* CR 56(c).

15 The material facts in this matter are not in dispute, rendering summary judgment
16 appropriate. Dr. Hagopian does not contest that they both forwarded an email to the AAUP email
17 group that encouraged recipients to donate to the strike organization, nor do they contest that
18 they received numerous emails not related to their work as a professor. **As discussed below,**
19 **summary judgment is granted in favor of Board Staff based on Dr. Hagopian’s violations**
20 **of the Ethics Act.**

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23 ¹ The Board has adopted the model rules of procedures, chapter 10-08 WAC. WAC 292-100-006.

1 3.3 The Ethics Act governs the conduct of state officers and employees. Under
2 RCW 42.52.430(5), Board Staff must establish by a preponderance of the evidence that
3 Dr. Hagopian violated the Ethics Act.

4 3.4 RCW 42.52.160(1) provides the following:

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6 No state officer or state employee may employ or use any person, money, or
7 property under the officer's or employee's official control or direction, or in his
8 or her official custody, for the private benefit or gain of the officer, employee, or
9 another.

10 3.5 Based on the preponderance of the evidence established in the Findings of Fact,
11 the Board concludes that Dr. Amy Hagopian violated RCW 42.52.160(1) by using their UW
12 email for their own private benefit and/or gain, and to support and promote the interests of and/or
13 solicit for an outside organization.

14 Dr. Hagopian used their UW email to receive communications from companies and
15 websites not related to their work for UW, including: various Democratic political organizations,
16 eBay, Netflix, PayPal, WSECU, Delta, Etsy, Airfare Watchdog, VRBO, Westin, Marriott
17 Bonvoy, Levi's Rockport, Yoga Direct, and others. Dr. Hagopian also forwarded an email to the
18 American Association of University Professors email list hosted by UW, which promoted the
19 interests of, supported, and solicited on behalf of an organization of striking California academic
20 workers.

21 3.6 Board Staff appropriately conferred with the University of Washington as
22 required. The Board, however, is not bound by the University of Washington Executive Director
23 of Internal Audits conclusions regarding Respondent's use of the AAUP Issues and Concerns
email list.

1 3.7 RCW 42.52.160(4) provides the following:
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3 The appropriate ethics boards may adopt rules providing exceptions to this
4 section for occasional use of the state officer or state employee, of de minimis
5 cost and value, if the activity does not result in interference with the proper
6 performance of public duties.

7 WAC 292-110-010(3) provides, in relevant portion, that:

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

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

- 12 (i) There is little or no cost to the state;
- 13 (ii) Any use is brief;
- 14 (iii) Any use occurs infrequently;
- 15 (iv) The use does not interfere with the performance of any state
16 officer's or employee's official duties;
- 17 (v) The use does not compromise the security or integrity of state
18 property, information systems, or software;
- 19 (vi) The use is not for the purpose of conducting an outside business,
20 in furtherance of private employment, or to realize a private financial
21 gain;
- 22 and
- 23 (vii) The use is not for supporting, promoting the interests of, or
soliciting for an outside organization or group.

15 Dr. Hagopian's use of their UW email to receive communications from companies that
16 had no relation to their work for UW was not "infrequent." The volume of emails received, even
17 if the Board disregards those related to news, health information gathering, and travel, far
18 exceeded a de minimis use and improperly included political and personal topics. Whether
19 emails were in a junk mail or spam folder, and whether the Respondent read or did not read
20 them, is not dispositive in determining whether a violation of the Ethics Act occurred. The
21 presence of emails that concern Netflix membership, yoga, or other non-work related topics, and
22 the references to invoices and payment statements, show that Respondent utilized their state
23 email for personal use. In addition, forwarding the email for the strike organization that

1 specifically mentioned donating to the organization and provided a link to do so promoted the
2 interests of, supported, and solicited on behalf of the strike organization. RCW 42.52.160(4),
3 WAC 292-110-010(3)(iii), (vii). Because such use does not meet each of the criteria in WAC
4 292-110-010(3), Dr. Hagopian’s use of their UW email cannot be considered de minimis,
5 acceptable personal use.

6 3.8 Under RCW 42.52.480, the Board may impose a civil penalty of up to \$5,000 per
7 violation or three times the economic value of anything received or sought in violation of the
8 Ethics Act, whichever is greater. The Board concludes that a \$750 penalty is appropriate.

9 3.9 In determining the appropriate sanction, the Board reviewed the nature of the
10 violation, as well as the aggravating circumstances and mitigating factors set forth in WAC 292-
11 120-030. Dr. Hagopian’s violations were continuing in nature and tend to significantly reduce
12 public respect for or in state government or state government officers or employees. WAC 292-
13 120-030(2)(a) and (e). No mitigating factors are present.

14 **IV. FINAL ORDER**

15 4.1 Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby
16 ordered that Dr. Amy Hagopian is assessed monetary civil penalty of \$750 based on their
17 violations of RCW 42.52.160(1).

18 4.2 The total amount of \$750 is payable in full within 90 days of the effective date of
19 this order.

20 DATED this 28th day of October 2024.

21 WASHINGTON STATE EXECUTIVE ETHICS BOARD

22 *Kelli Hooke*
23 _____
Kelli Hooke, Chair

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APPEAL RIGHTS

RECONSIDERATION OF FINAL ORDER – BOARD

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

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

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

FURTHER APPEAL RIGHTS – SUPERIOR COURT

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

The petition for judicial review must be filed with the superior court and served on the Board and any other parties within 30 days of the date that the Board serves this Final Order on the parties. RCW 34.05.542(2).

A petition for review must set forth:

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

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2 (5) Identification of persons who were parties in any adjudicative proceedings that led to
3 the agency action;

4 (6) Facts to demonstrate that the petitioner is entitled to obtain judicial review;

5 (7) The petitioner's reasons for believing that relief should be granted; and

6 (8) A request for relief, specifying the type and extent of relief requested.
RCW 34.05.546.

7 **ENFORCEMENT OF FINAL ORDERS**

8 If there is no timely request for reconsideration, this is the Final Order of the Board. The
9 Respondent is legally obligated to pay any penalty assessed.

10 The Board will seek to enforce a Final Order in superior court and recover legal costs
11 and attorney's fees if the penalty remains unpaid and no petition for judicial review has been
12 timely filed under chapter 34.05 RCW. This action will be taken without further order by the
Board.

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PROOF OF SERVICE

I certify that I served a true and correct copy of this document on all parties or their counsel of record on the date below as follows:

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Pursuant to the ESA, via electronic mail:
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ABC/Legal Messenger

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 28th day of October, 2024, at Olympia, Washington.

Ruthann Bryant

RUTHANN BRYANT
Administrative Officer