

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Oscar Ochoa  
Respondent.

No. 2023-061

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Oscar Ochoa 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 July 25, 2023, the Executive Ethics Board (Board) received an agency referral alleging that Oscar Ochoa, a former employee of the Washington State Department of Social and Health Services (DSHS), may have violated the Ethics in Public Service Act. The referral alleged that Oscar Ochoa violated RCW's 42.52.050 and 42.52.160.

2. According to the referral, Oscar Ochoa allegedly used their DSHS email account for personal use, to include communication with their wife, their insurance company, and to make personal purchases. It was further alleged that Oscar Ochoa had made several referrals which

wasted state funds and had shared confidential information with outside medical providers, via their state email account.

3. According to DSHS, Oscar Ochoa was hired in 1991, and later served as a Social Service Specialist 5 (Supervisor) at the Moses Lake Community Services Office, since 2002. Oscar Ochoa maintained that role until submitting their voluntary resignation on April 17, 2023, during an internal DSHS investigation into this matter.

4. As indicated above, DSHS initiated a formal investigation and audit, based on these allegations that were presented to DSHS on September 7, 2022. The scope of the DSHS investigation included several internal allegations, including violation of a directive/disrespectful interaction with department staff, violation of the principle of separation of duties/damaging public confidence in the integrity of state government, abuse of authority, and improper use of DSHS electronic messaging systems/failure to safeguard confidential information.

5. During the course of the DSHS investigation and prior to any internal disciplinary action, Oscar Ochoa resigned from their position. Although Oscar Ochoa submitted their resignation on April 17, 2023, their resignation was not effective until April 30, 2023. On April 21, 2023, a written DSHS reprimand was delivered to Oscar Ochoa's personal home address. The basis for the DSHS discipline was as follows:

- Oscar Ochoa proceeded to work their staff's cases and forced them to copy and paste Oscar Ochoa's narratives to appear as their work.
- Oscar Ochoa acted inappropriately with a staff member.
- Oscar Ochoa used the DSHS state email system extensively and frequently for personal use during work hours.
- Oscar Ochoa failed to follow proper DSHS procedures resulting in misappropriation of state funding.

6. As part of this investigation, Board staff received a finalized copy of the DSHS internal investigation. Upon review of the DSHS investigation and audit, Board staff learned the following.

7. According to documentation provided by DSHS, Oscar Ochoa was controlling the direction of in-house referrals for their staff and for staff outside of their unit, when it came to requesting Mental Incapacity Evaluations (MIE). DSHS had three providers in the Moses Lake area that could handle MIE's. However, Oscar Ochoa allegedly referred all cases to Dr. Genthe with Psychological Assessment and Counseling Services, Inc.

8. According to DSHS, when it is determined a patient needs a mental health referral, it should be "that of the least financial impact to the state" and MIE referrals should only occur if a patient cannot be seen by their primary medical provider within 60 days. Only when a patients' primary doctor refuses a referral would DSHS then utilize an outside MIE provider such as Dr. Genthe. DSHS stated a referral to an outside MIE provider should be "our last resort and not our first."

9. As part of the DSHS internal review, they acquired a subject matter expert (SME) to conduct a 3.5-month review of all cases referred by Oscar Ochoa. As part of the review, Moses Lake staff shared they had been ordering annual MIE evaluations to occur with Dr. Genthe and there had been no instruction to order copies of patient medical records prior to scheduling the MIE appointments. DSHS noted an excerpt from the Social Service Manual, 'Medical Evidence Requirements and Reimbursements,' revised July 1, 2020: "We request medical records if available before authorizing new evaluations or services."

10. Upon the completion of the 3.5-month review of cases that had been referred to MIE provider Dr. Genthe, it was discovered that 134 "unnecessary referrals" were made by Oscar

Ochoa. As indicated above, staff are required to obtain medical records prior to making MIE referrals. The 134 referred clients were established with mental health providers within their community where records could have been ordered but were not. Additionally, DSHS noted that MIE referrals of these clients were unnecessary, since DSHS only needed their established care diagnosis to provide client benefits. According to the DSHS audit, the 134 referrals cost the state a total of \$15,380 that was “potentially unnecessary to spend.”

11. DSHS additionally noted that Oscar Ochoa had been ordering annual MIE evaluations of these clients, which again was unnecessary. DSHS advised that MIE’s are purely for the original diagnosis and staff would then create treatment plans for their clients to work with local providers moving forward.

12. In addition to the audit of referrals made by Oscar Ochoa, the DSHS investigation reviewed Oscar Ochoa’s state emails. The investigation noted “approximately 111 emails” that were personal in nature, including arranging purchases for sport facility signage, receiving church documents sent by Oscar Ochoa’s wife, and arranging personal insurance claims via Liberty Mutual. During an interview with Oscar Ochoa, they admitted to using their state email for personal reasons and acknowledged their use was not compliant with DSHS policy.

13. According to DSHS, they were unable to conduct a follow-up interview with Oscar Ochoa, regarding the unnecessary referrals they made since they resigned prior to the completion of that audit and DSHS was unable to “require” Oscar Ochoa’s participation.

14. As part of this investigation, Board staff reviewed Oscar Ochoa’s written response to the allegations which were outlined in their case notification letter. Oscar Ochoa stated, “I do and did admit to using my state e-mail.” They further stated, “This was de minus use as I did not spend hours on the computer with this process, but again, immediately ceased this practice once I

was informed.” Oscar Ochoa did not respond to the allegations of sending over 130 unnecessary referrals to Dr. Genthe.

15. As part of this investigation, Board staff obtained a forensic copy of Oscar Ochoa’s state computer and emails. Utilizing Magnet Forensics software, the contents were reviewed. No items of evidentiary value were located on Oscar Ochoa’s computer, but several emails were flagged, including:

- **June 16, 2022**: Email sent to a personal Yahoo address with an attachment. Upon review of attached document, Oscar Ochoa utilized DSHS letterhead to write a letter of reference for a member of their church. Additionally, Oscar Ochoa signed the document:  
“Oscar Ochoa  
Social Services Administrator  
& Youth Pastor, LakeCity Foursquare Church”
- **September 9, 2022**: Email sent to a school principal, related to Oscar’s church duties.
- **September 12, 2022**: Email sent to a personal address related to a bilingual education group.
- **September 14, 2022**: Email string related to invoices for renting an athletic training facility for high school football activity.
- **September 14, 2022**: Email string with Oscar Ochoa’s wife, related to church matters.
- **September 15, 2022**: Email to a personal address related to medical information, appears nonrelated to DSHS.
- **September 15, 2022**: Email sent related to school sports and signage orders.
- **September 15, 2022**: Email string with Oscar Ochoa’s wife, related to church matters.
- **September 16, 2022**: Email string related to Oscar Ochoa’s personal insurance (Liberty Mutual).
- **September 20, 2022**: Email string with Oscar Ochoa’s wife, related to church matters.

- **September 21, 2022**: Email string related to Oscar Ochoa's personal insurance (Liberty Mutual).
- **September 21, 2022**: Email string with Oscar Ochoa's wife, related to church matters.
- **September 22, 2022**: Email string to a personal address, related to youth sports.
- **September 23, 2022**: Email string related to Oscar Ochoa's Liberty Mutual insurance claim and payment owed.
- **September 24, 2022**: Email from Dick's Sports, related to upcoming sales.
- **September 25, 2022**: Email from Liberty Mutual Insurance, related to a bill and auto claim information.
- **September 26, 2022**: Email from Safeway, confirming updated account information and email address added.
- **September 27, 2022**: Email to Oscar Ochoa from their personal bank account, related to recent deposits.
- **September 27, 2022**: Email to Oscar Ochoa from a personal email, related to the Moses Lake Booster Club and signage for a sports event.

16. Board staff located no emails in which confidential information was being shared, as alleged in the referral, at which time Board staff reached out to DSHS to inquire.

17. Brendan Kolding (DSHS Investigations Manager) provided Board staff with a copy of an email sent from Oscar Ochoa, on August 10, 2022, to Moses Lake Community Health Clinic.<sup>1</sup> Attached to the email sent by Oscar Ochoa was a list of several female names, dates of births, phone numbers, and home addresses. The list contained names of pregnant females which may have needed maternity support services. According to DSHS, there was no contract or memo of understanding (MOU) with Moses Lake Community Health Clinic therefore that list with

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<sup>1</sup> Upon being notified of the date this email was sent, Board staff verified the forensic copy of Oscar Ochoa's emails. There is a gap in sent emails, between the dates of August 8, 2022 – August 16, 2022.

protected information should not have been sent. Additionally, DSHS noted that none of the names on the list had signed a consent form to release their information to an outside entity.

## B. CONCLUSIONS OF LAW

The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from **RCW 42.52.050 – Confidential information – Improperly concealed records, which states, in part:**

- (2) No state officer or state employee may make a disclosure of confidential information gained by reason of the officer's or employee's official position or otherwise use the information for his or her personal gain or benefit or the gain or benefit of another, unless the disclosure has been authorized by statute or by the terms of a contract involving (a) the state officer's or state employee's agency and (b) the person or persons who have authority to waive the confidentiality of the information.
- (3) No state officer or state employee may disclose confidential information to any person not entitled or authorized to receive the information.

*And;*

**RCW 42.52.160 – Use of persons, money, or property for private gain, which states, in part:**

- (1) 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.

WAC 292-110-010 Use of state resources states, in part:

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- (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.

1. 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, there are no mitigating factors.

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

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

12. The civil penalty in the amount of seven hundred 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, Oscar Ochoa, 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.

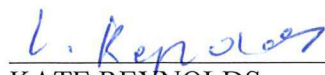


10.07.2024

Oscar Ochoa  
Respondent

Date

Presented by:



KATE REYNOLDS  
Executive Director

10/22/24  
Date

