

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Kurt Lupinski

Respondent.

No. 2023-076

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Kurt Lupinski 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 September 26, 2023, the Executive Ethics Board (Board) received a referral from the State Auditor's Office (SAO) alleging that Kurt Lupinski, an employee of Lower Columbia College (LCC), may have violated the Ethics in Public Service Act. The referral alleged that Kurt Lupinski violated RCW Chapter 42.52, by using state resources for non-work related activities and receiving special privileges.

2. According to the referral, Kurt Lupinski "formed a new company" called Journey Before Destination Athletics (JBD), which was allegedly running baseball camps on one of LCC's sports fields, Story Field. It was further alleged that Kurt Lupinski did not pay the same rates for

field usage as outside renters were required to. Lastly, it was alleged that Kurt Lupinski “rented the fields to himself,” “used college resources” for their company, and used college resources for “personal use.”

3. According to LCC, Kurt Lupinski was hired in June 2019, as the Assistant Baseball Coach. On July 16, 2021, Kurt Lupinski was promoted to the Head Baseball Coach and Story Field Manager and maintains that position.

4. As part of this investigation, Board staff obtained several documents from LCC, as well as a finalized copy of their internal incident report (IR). Of the several documents received, Board staff reviewed a copy of a newspaper article from Longview Daily News dated July 3, 2023. The article was titled “Summer Baseball Prospects: Lupinski, JBD Athletics bringing boys of summer back to Longview.” According to the newspaper article, the Cowlitz County Clash tournaments were “hosted and managed by Journey Before Destination (JBD) Athletics, a new company owned and operated by Lupinski, who just happens to double as Lower Columbia College’s baseball coach.”

5. Board staff also reviewed a document by LCC which showed LCC Story Field rental rates. The following are the adopted rental rates:

- Field rental for all tournaments: \$500 per day
- Field rental for single games (without lights and without scoreboard): \$150 per game
- Field rental for single games (without lights and with scoreboard): \$200 per game
- Field rental for single games (with lights and with scoreboard): \$250 per game

6. According to the LCC IR, Kurt Lupinski developed the rental fee structure for Story Field that LCC was currently utilizing. As part of Kurt Lupinski’s duties with LCC, they are to rent Story field out for games and tournaments.

7. According to LCC records, Kurt Lupinski rented Story field to JBD Athletics on several occasions in 2023, including:

- January 9 – 12: 4 days; 3 hours per day; total \$150
- January 16 - 19: 4 days; 3 hours per day; total \$150
- January 23 – 26: 4 days; 3 hours per day; total \$150
- January 30 – February 2: 4 days; 3 hours per day; total \$150
- June 23 – 25: \$500 per day, for a total of \$1,500
- July 6: 3 hours; total \$150
- July 10: 3 hours; total \$150
- July 31: 3 hours; total \$150

8. According to the LCC IR, Kurt Lupinski did not charge JBD the same rate as other entities, on the following dates:

- January 9 – 12: *Should have paid \$200*
- January 16 – 19: *Should have paid \$200*
- January 23 – 26: *Should have paid \$200*
- January 30 – February 2: *Should have paid \$200*
- June 23 – 25: *Should have paid \$2,400*
- June 30 – July 2: *Should have paid \$2,400*

9. According to LCC, Kurt Lupinski had recently charged an outside entity, GSL Tournaments,<sup>1</sup> \$800 per day for field rental, rather than the \$500 indicated on the LCC rate chart. That rental charge took place in July and was the most recent comparable to JBD rentals. Based on that outside entity charge, LCC believed JBD should have also paid the \$800 per day, as indicated above for \$2,400 total.

10. In an interview LCC conducted with Kurt Lupinski, they were asked about that upcharge to GSL. Kurt Lupinski stated they charged GSL \$800 per day because “he knew they would pay it” and that he could “make more money for Story Field.” Kurt Lupinski further advised

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<sup>1</sup> GSL Tournaments website notes they are the “largest baseball tournament provider in the Pacific Northwest.”

the reason JBD paid a cheaper rate was because they felt it was reasonable to have a lower rate for LCC employees to “make it more enticing to rent.”

11. The LCC IR additionally indicated that on the above noted occasions while Kurt Lupinski was conducting business related to JBD on LCC time and fields, they failed to submit leave requests. In total, Kurt Lupinski failed to submit leave for 79 hours. However, after the initial LCC investigative interview with them, Kurt Lupinski submitted leave for those hours.

12. Additionally, as part of the LCC investigation, Kurt Lupinski’s LCC emails were reviewed. According to the IR, Kurt Lupinski had used their LCC email account to conduct business related to JBD Athletics. In total, 11 emails were located between the dates of January and July 2023 that were related to JBD business. Between the dates of January and March 2023, an additional eight emails were located that were personal in nature. Of those eight emails, some included the printing of personal documents on LCC printers, such as an email from Kurt Lupinski’s wife on January 19, 2023, related to the printing of a maternity leave packet.

13. In Kurt Lupinski’s written response to Board staff, they stated, “I want it noted that I had no malicious intent in any of my actions and thought I was following protocols as I understood them at the time. I have since been educated further on all violations that took place, including taking an ethics training.”

## **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:

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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.

*And;*

**RCW 42.52.070 – Special privileges and exemptions, which states, in part:**

(1) 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, or other persons.

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. 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 Kurt Lupinski 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. Kurt Lupinski 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. Kurt Lupinski 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. Kurt Lupinski 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. Kurt Lupinski 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 Kurt Lupinski 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 Kurt Lupinski 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 Kurt Lupinski 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, Kurt Lupinski 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, Kurt Lupinski 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.

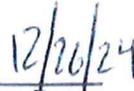
11. Kurt Lupinski agrees to pay a civil penalty in the amount of one thousand five hundred dollars (\$1,500) associated with violations of RCW 42.52. The Board agrees to suspend seven hundred fifty dollars (\$750) on the condition that Kurt Lupinski complies with all terms and conditions of this Stipulation 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 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.

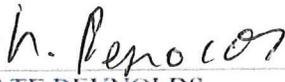
### I. CERTIFICATION

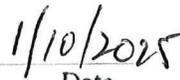
I, Kurt Lupinski, hereby certify that I have read this stipulation in its entirety, that my counsel of record, if any, has fully explained the legal significance and consequence of it. I further certify that I fully understand and agree to all of it, and that it may be presented to the Board without 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.

  
Kurt Lupinski  
Respondent

  
Date

Presented by:

  
KATE REYNOLDS  
Executive Director

  
Date

