

BEFORE THE WASHINGTON STATE  
EXECUTIVE ETHICS BOARD

In the Matter of:

Robert Whitham  
Respondent.

No. 2023-080

STIPULATED FACTS,  
CONCLUSIONS OF LAW AND  
AGREED ORDER

THIS STIPULATION is entered into by Respondent, Robert Whitham 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 October 5, 2023, the Executive Ethics Board (Board) received an agency referral alleging that Robert Whitham, an employee of the Washington State Department of Children, Youth & Families (DCYF), may have violated the Ethics in Public Service Act. The referral alleged that Robert Whitham violated RCW Chapter 42.52, by using state resources for non-work-related activities.

2. According to the referral, on Saturday July 22, 2023, Robert Whitham allegedly parked their personal vehicle in a DCYF Seattle parking garage (King Street) to attend a Mariner's baseball game. It was additionally alleged that Robert Whitham gave their DCYF issued keycard

for building access to their daughter and allowed their daughter and a friend to “camp out” on DCYF property during the day, while they waited for a Taylor Swift concert later that evening.<sup>1</sup>

3. According to DCYF, Robert Whitham was originally hired by DCYF in 1993. Their current position is a Social Service Specialist 5 (SSS5).

4. As part of this investigation, Board staff obtained several documents from DCYF, including their finalized internal investigation report (IR).

5. Upon review of the IR, Board staff learned that on the morning hours of July 22, 2023, a DCYF employee was in their apartment building across the street from the Seattle (King Street) DCYF building. While they sat on their balcony, they observed two women on the fourth floor of the King Street building in their pajamas, “hanging out” in the staff lobby. Knowing the building was closed on weekends, the DCYF employee contacted their immediate supervisor and later met with building security.

6. When the DCYF employee entered the King Street building with security at approximately 10am, two young females were located on the premises. One was identified as X<sup>2</sup> Whitman, the daughter of Robert Whitman. According to X Whitham, their father had given them permission to access the building by using Robert Whitman’s work badge. X Whitman further confirmed that Robert Whitham was attending a Mariner’s game and that their vehicle was parked in the below garage.

7. While with building security, several attempts were made by X Whitham to contact Robert Whitham via telephone, however they failed to answer the phone calls or text messages.

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<sup>1</sup> Robert Whitham is assigned to the King Street building, however, was not scheduled to work nor were they in any DCYF capacity on this date.

<sup>2</sup> The daughters first name has been withheld as they are a dependent.

DCYF Investigators later attempted to further interview both X Whitham and their friend, both failed to provide formal interviews.

8. On September 14, 2023, DCYF investigators conducted an interview with Robert Whitham. Robert Whitham was presented with a training record from 2021, in which they completed the WA State Ethics training. Robert Whitham confirmed taking that class and stated it “[m]ade sense, there was nothing I did not understand.”

9. Robert Whitham was asked about their understanding of keeping DCYF buildings secure to DCYF employees only, to which they replied they were to “not allow people in the building.” When Robert Whitham was asked about their understanding of employee access to DCYF parking garages for non-business needs, they replied, “I don’t know. I guess you are not supposed to do that.”

10. Robert Whitham was asked specifically about the events that occurred on July 22, 2023, surrounding their daughter and friend being provided access to the DCYF building. Robert Whitham stated, “[y]es, sounds about right. I said they could go up there because there are no files up there. It is an open work area. They were going to change, get ready, and leave to hang out before the concert. It was pandemonium down on the streets near the stadium.”

11. Robert Whitham was asked if they had notified anyone at DCYF about them allowing their daughter access to the building, to which they stated, “[n]o. I just thought it was easier for me. I’m lazy. I didn’t send an email about it.”

12. Upon review of the keycard access system, DCYF investigators learned that Robert Whitham had also accessed the King Street building on July 23, 2023; once at 11:25am and once at 4:10pm. Robert Whitham was asked why they accessed the building on that day, since they were not scheduled to work their shift until the later evening (graveyard) shift that day. According

to Robert Whitham, they attended another Mariner's game that day, so they again parked there. When asked if they had entered the building, Robert Whitham replied, "I can't remember. If my son had to use the bathroom, maybe, which would have been the only reason why. It was two months ago."

13. In Robert Whitham's written response to Board staff, they stated, "I never received prior notification (written or oral) that use of state parking was an ethics violation. After the investigation, an email was sent out to all staff, which I now intend to follow."

## 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, parents, 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 Robert Whitham 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. Robert Whitham 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. Robert Whitham 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. Robert Whitham 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. Robert Whitham 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 Robert Whitham 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 Robert Whitham 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 Robert Whitham 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, Robert Whitham 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, Robert Whitham 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. Robert Whitham agrees to pay a civil penalty in the amount of two thousand dollars (\$2,000) associated with violations of RCW 42.52. The Board agrees to suspend one thousand dollars (\$1,000) on the condition that Robert Whitham 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 one thousand dollars (\$1,000) 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, Robert Whitham, 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.

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Robert Whitham  
Respondent

01/24/25  
Date

Presented by:

K Reynolds / KR

KATE REYNOLDS  
Executive Director

3/14/25  
Date



