

BEFORE THE WASHINGTON STATE
EXECUTIVE ETHICS BOARD

In the Matter of:

Jessica Chaney
Respondent.

No. 2013-024

STIPULATED FACTS,
CONCLUSIONS AND ORDER

I. STIPULATION

THIS STIPULATION is entered into under WAC 292-100-090(1) between the Respondent, JESSICA CHANEY, and Board Staff of the WASHINGTON STATE EXECUTIVE ETHICS BOARD (Board) through EVELYN FIELDING LOPEZ, Acting Executive Director. The following stipulated facts, conclusions, 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.

Section 1: PROCEDURAL FACTS

1.1. On August 26, 2013, the Executive Ethics Board (Board) received a complaint alleging that Jessica Chaney, Social Worker, Home and Community Services (HCS), Department of Social and Health Services (DSHS) may have violated the Ethics in Public Service Act by using state resources for her personal benefit when she submitted false mileage reimbursement claims and when she took time off from work without submitting the proper leave request.

1.2. The Board is authorized under RCW 34.05.060 to 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.

1.3. Jessica Chaney understands that if Board staff proves any or all of the alleged violations 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).

1.4. Jessica Chaney recognizes that the evidence available to the Board staff is such that the Board may conclude she 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 set forth below.

1.5. Jessica Chaney waives the opportunity for a hearing, contingent upon acceptance of this stipulation by the Board, or her acceptance of any modification(s) proposed by the Board, pursuant to the provisions of WAC 292-100-090(2) which provides in part:

The board has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the board accepts the stipulation or modifies the stipulation with the agreement of the respondent, the board shall enter an order in conformity with the terms of the stipulation. If the board rejects the stipulation or the respondent does not agree to the board's proposed modifications to the stipulation, the normal process will continue. The proposed stipulation and information obtained during formal settlement discussions shall not be admitted into evidence at a subsequent public hearing.

1.6. If the Board accepts this stipulation, the Board will release and discharge Jessica Chaney from all further ethics proceedings under chapter 42.52 RCW for matters arising out of the facts contained in the complaint 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 agreed order. Jessica Chaney 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 and agreed order.

1.7. If this Stipulation is accepted, this Stipulation and Order does not purport to settle any other claims between Jessica Chaney and the Washington State Executive Ethics Board, the State of Washington, or other third party, which may be filed in the future.

1.8. If this Stipulation is accepted, this Stipulation and Order is enforceable under RCW 34.05.578 and any other applicable statutes or rules.

1.9. If the Board rejects this stipulation, or if Jessica Chaney does not accept the Board's proposed modification(s), if any, this matter will be scheduled for an administrative hearing in front of the Board and Jessica Chaney waives any objection to participation by any Board member at any subsequent hearing to whom this stipulation was presented for approval under WAC 292-100-090(2). Further, Jessica Chaney understands and agrees that this proposed stipulation and information obtained during any formal settlement discussions held between the parties shall not be admitted into evidence at a subsequent public hearing, unless otherwise agreed by the parties.

Section 2: FINDINGS OF FACT

2.1. Ms. Chaney was employed by the DSHS in February of 1997. In 2001, she became a Social Worker in Child Protective Services (CPS) Division working out of the Kent office. She worked in that position until October 2012 when she took a position as a Social Worker in the Home and Community Services (HCS) Division working out of a Seattle office.

2.2. Ms. Chaney's work schedule for working in the Seattle office was a normal Monday through Friday, 8:00 a.m. to 5:00 p.m. schedule. Ms. Chaney was overtime eligible.

2.3. Ms. Chaney stated that she was allowed to flex her schedule if she had to work late due to a late assessment or if she stayed in the office working late. She stated that if she worked late she would let her supervisor know that she worked late and that she would be coming in late the following workday.

2.4. A review of Ms. Chaney's time and attendance record's only showed that she work eight (8) hours on any given day. It does not show the actual hours worked. However, her work hours are identified on the report as 8:00 a.m. to 5:00 p.m.

2.5. Ms. Chaney's supervisor, Khaled Khalifa confirmed that she was allowed to flex her schedule as long as she worked 40 hours per week. Mr. Khalifa indicated that there was not a system or process to track when Ms. Chaney worked late, came to work late or worked from home; it was completely on the honor system.

2.6. Ms. Chaney's time and attendance records indicate that her work hours are 8:00 a.m. through 5:00 p.m., Monday through Friday. The door entry data and the "In and About" log clearly indicate that Ms. Chaney was not coming into the office (Seattle or Kent) to work at her required times.

2.7. The State Administration and Accounting Manuel (S.A.A.M.) 10.50.25 Restrictions on reimbursement for privately-owned motor vehicle use state in 10.50.25a that, "Daily commute transportation expenses between the travel's official residence and official station (or agency approved teleworking site) is a personal obligation of the traveler and is not reimbursable by the state. All other miles driven on official state business are reimbursable."

2.8. DSHS Administrative Policy 19.10.04 – Mileage Reimbursement establishes the limitations for mileage reimbursement when conducting official state business. In section "C" of

the policy it states, "Commute transportation expenses are a personal obligation of the traveler and are not reimbursable by the state."

2.9. During the time Ms. Chaney worked out of the Kent office for the time period of August 2011 to September 2012 she submitted 150 request for mileage reimbursement through TEMS None of the 150 requests for mileage reimbursements appeared to be inappropriately submitted. During this time Ms. Chaney's Official Work Station and her Official Residence were both Kent. Any work related travel starting from Kent and ending in Kent would be reimbursable.

2.10. In October 2012, Ms. Chaney's official station changed from Kent to Seattle, but her official residence remained Kent. Her normal commute route is Kent to Seattle and Seattle to Kent. Any travel on this commute route is not entitled to reimbursement unless the trip starts in Seattle and ends in Seattle on the same day, or starts from Kent ending in Kent (round trip), but only the miles that are not part of the normal commute.

2.11. In October of 2012, Ms. Chaney's official work station changed from Kent to Seattle. From October 2012, to September 2013, Ms. Chaney submitted 126 claims for mileage reimbursement. Sixty-one of those claims contained errors resulting in Ms. Chaney being over paid.

2.12. All of the 61 trips were claimed as round trips starting from the Seattle office. Evidence obtained from DSHS revealed that she was not at the Seattle office at the start of the trips and/or that she was not at the office at the end of the trip. Ms. Chaney claimed twenty-three (23) round trips from Seattle to Kent, eleven (11) round trips from Seattle to Auburn, and 26 round trips from Seattle to other locations in King County. The evidence shows that these trips

did not start or end in Seattle. Total amount inappropriately claimed by Ms. Chaney was \$1,177.00.

Section 3: CONCLUSIONS OF LAW

3.1. Pursuant to chapter 42.52 RCW, the Executive Ethics Board has jurisdiction over Ms. Chaney and over the subject matter of this complaint.

3.2. 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.

3.3. The Ethics in Public Service Act, Chapter 42.52 RCW, prohibits state employees from using state resources for their benefit. RCW 42.52.160(1) states:

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.

3.4. Based on Findings of Fact 2.1 through 2.12, Ms. Chaney used state resources for her personal benefit in violation of RCW 42.52.160 and WAC 292-110-010.

3.5. 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.

Section 4: AGGRAVATING AND MITIGATING FACTORS

In determining the appropriateness of the civil penalty, the Board reviewed the criteria in WAC 292-120-030. Aggravating factors are that these types of violations significantly reduce the public respect and confidence in state government employees, and Ms. Chaney knowingly violated DSHS Policy and State Ethics Law to benefit financially.

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 11th day of July 2014

 Lisa Marsh
Lisa Marsh, Chair

 Approved via telephone
Anna Dudek Ross, Vice-Chair

 M. Williams III
Matthew Williams III, Member

 Samantha Simmons
Samantha Simmons, Member

 Approved via telephone
Sumeer Singla, Member

* I, Jessica Chaney, accept/do not accept (circle one) the proposed modification(s).

Jessica Chaney, Respondent Date