

The Washington State Legislature created the Executive Ethics Board (EEB) to enforce the state's ethics law. The rules adopted apply to elected officers and all other officials and employees in the executive branch, boards and commissions, also institutions of higher education. EEB consists of five members appointed by the governor using specific criteria to whom the legislature has given a special mandate.¹ That mandate predicates ethics as the foundation of a government that derives its power from the people.²

Government derives from the natural character of the people. Simultaneously, the coercive power of the people directs itself inwardly. This coercive power essentially distinguishes state government from the voluntary subordination found in every community. When government officials and employees subordinate the rights of individuals then government breaks with its constituency and needs reconstruction. When state officials claim executorship over all the vital and cultural activities of the people then it forfeits its own dignity and its specific authority to govern.³

The term "ethics" describes ideal individual and organizational behavior while law defines the minimum practical standards permitted by an ethical society. Ethics do not equate with morals but more with professional standards and law. Moreover, one expects higher ethical standards from state officials and employees than the lowest common denominator that legal dialectic provides. Unethical behavior by them classifies as unlawful behavior despite the disparity between ethical constraints and legal rules.

State officials and employees are subject to the sanctions of law and scrutiny of the media and must consider public accountability as a particular obligation of public service. The legislature has decreed that they must conduct government affairs with openness and an unswerving commitment to the public good.

However, the Executive Ethics Board, created to insure these ideals, operates unlawfully in support of self-interest and unlawful activities by government officials and employees. As a "department" of the office of the Attorney General, the EEB has a blatant conflict of interest. This allows it to evade investigating complaints that could embarrass the Governor, the Attorney General, the State Auditor, administrators at the University of Washington, and other state employees.

EEB Executive Secretary, Margaret A. Grimaldi, has served in a conflict of interest as an administrative assistant to, and at the pleasure of, the attorney general since July 1997. Her conflict of interest as executive secretary results because she has a prime responsibility to the EEB and not the Attorney General. She receives a \$50,400.00 (1999) salary and has no legal

education but holds a MA and a BA in history. Grimaldi has announced that she will leave EEB for a new position in state government.

Grimaldi functions as a lawyer without a licence and openly claims to have researched and written advisory opinions on ethics and audit issues. In her previous position under Gary Locke (then King County Executive) she claimed to have researched state and county laws, conducted fact-findings, and developed and drafted all board advisory opinions. By law, these functions remain the prerogative of lawyers not history majors. However, her knowledge of history has helped her repeat it at EEB. Ironically, one of her “opinions” dealt with a conflict of interest when Harborview Board of Trustees appointed an assistant attorney general to serve on its board: a situation reflected at EEB.

Although Grimaldi holds no academic credentials in the discipline, she claims to have served as adjunct faculty, UW Graduate School of Public Affairs (GSPA), teaching administrative ethics. The UW GSPA administrator denies that Grimaldi ever held an adjunct faculty appointment. Moreover, a search of university records showed that she has never held any faculty position at UW. Instead, the GSPA administrator reported that Grimaldi had lectured as a practitioner. Professors sometimes invite outside practitioners to speak to their students on specialist topics. Grimaldi performed that function. Her paid employment at UW still conflicted with her EEB responsibility to administer complaints against university employees despite her unethical resumé “slip.”

The distinction between interpretation and construction needs a precise understanding. Interpretation helps discover the meaning of existing text whereas construction employs political creativity. Together interpretation and construction unify legal precedent and legislative doctrines. Interpretation unfolds the law by elaborating upon a series of doctrines, formulas, or tests. It searches and defines the meaning already within the text. Therefore, it ranks as a process of discovery linked to the original text and not a creative pursuit. When the text has no discoverable meaning then creativity beyond interpretation remains a legislative endeavor. Neither interpretation nor construction changes the centrality of the text. However, both provide extensions to political mandates. Consequently, judges limit themselves to interpretation while the legislative branches concern themselves with construction. No other person may redefine these terms and apply them arbitrarily.⁴

Grimaldi has assumed these powers and responsibilities reserved for the judiciary and the legislature by redefining legal interpretation and construction apparently for political expediency. Consequently, the EEB functions more as an out-of-control oligarchy than as a regulatory body. She has a history of refusing to record ethics complaints and by that denying complainants due process of law on a variety of nebulous grounds. She manipulates responses to public records requests made according to the public disclosure act. By this she covers up the administrative

practices that she uses arbitrarily to reject EEB complaints without recording them. To this end, she uses the unlawful practice known as general denial.

Despite a literal reading of the EEB procedural rules, civil rules do not allow arbitrary or general denials (denying all allegations in a complaint).⁵ This applies especially when the complainant declares a readiness to verify the allegations under an oath. Civil Rule 8 permits general denial only when the denying administrator intends in good faith to controvert all the formal assertions of fact. EEB has not controverted all the declarations and assertions (averments) in the rejected complaints as the law requires. Instead, it has arbitrarily rejected them without recording them and by ignoring the law governing liberal construction.⁶ Typically, it has returned public records to the complainant without keeping copies of them.

Nmesis has obtained documents from outside EEB which show that other “politically sensitive” ethics complaints exist that EEB has not recorded. Grimaldi refuses to admit receiving and returning them to the complainant without copying or recording them. She uses the smoking gun ploy to insure that the absence of documents indisputably proves that no paper trail (no smoking gun) points to the EEB. Grimaldi could not provide authorizations when requested to state promulgated rules that permit EEB’s pattern and practice of general denial.

Moreover, the law requires that EEB keep an index current for public inspection with respect to each ethics complaint submitted. Upon receipt the secretary must assign each complaint a reference number then enter the date that she received it in the index. The index must also show the status and the date of any scheduled hearings. On a finding of probable cause, the index must record the names of both complainants (unless they request nondisclosure) and respondents.

However, the complaint index maintained by EEB does not conform to these criteria and the secretary consistently evades requests for clarification. Upon inquiry, Grimaldi deluges the inquirer with hundreds of pages of documents that neither relate to the request nor have relevance to the particular subject.

EEB uses the ambiguous term "pending" in the complaint index. This obscures the true status. The word "pending" equivocates by evading a direct commitment from inception to conclusion. In common parlance, it ranks as a "weasel word" and has no place in a legal document. After Nmesis drew this to the secretary’s attention, she changed the record to “pending investigation.” That term still obscures the true status of the many outstanding complaints.

These few examples give an idea of the extent of the cover-up constantly and consistently organized by state officials and employees whom the taxpayer expects to run an ethical government. However, the examples do not take into account the myriad unlawful retaliation meted to whistle blowers who have followed their own moral and ethical principles in attempts to achieve ethical government.

Documents show that Grimaldi has indulged in unlawful practices condoned by the attorney general. The law requires administrative agencies to adopt rule changes before implementing them. To that end, they must follow mandated rule-change procedures. Grimaldi knew that she must not make arbitrary changes to rules yet proceeded to do so. Nmesis believes that a secretary would not have done that without outside influence. Therefore, EEB members and the attorney general must bear responsibility for the violations.

Evidently, Grimaldi has willingly followed the direction of people within and outside the EEB to deny complainants due process of law. Therefore, she has violated the law herself. If she did not feel comfortable with the situation then she could have resigned earlier. She has used the same cavalier pattern and practice that she, by her own admission, adopted when she worked at King County. "I only followed orders" excuses will not in law mitigate her actions. Moreover, she remains personally liable for any ethics violations for up to five years in her new position. This makes her a prime candidate for scapegoating by both EEB and the AG. It also leaves EEB and Grimaldi, jointly and severally, open to class actions by the whistle blowers, government employees, and citizens, against whom they have unlawfully discriminated.

The legislature created the ethics board to correct rampant violation of laws within state government and the UW. However, Governor Locke, Attorney General Christine O. Gregoire, State Auditor Brian Sonntag, UW President Richard L. McCormick, and their myriad political whores consistently use the ethics laws to cover up unlawful practices. They follow a procrastination principle that denies or postpones due process of law. They use kill-the-messenger techniques that delay justice then deny it. They abuse the law meant to rectify unlawful practices and indulge in the same patterns and practice of unethical behavior that they supposedly regulate. Evidently the legislature has failed abysmally in its attempt to establish honest government in Washington State.

Nmesis.

1. WAC 292-130-020. Function - Organization - Office.
2. RCW 42.52.900. Legislative Declaration.
3. Dietrich Bonhoeffer, *Ethics* (New York, NY: Simon & Schuster), 1995, 329.
4. Keith E. Whittington, *Constitutional Interpretation: Textual Meaning, Original Intent, and Judicial Review* (Lawrence, KS: University Press of Kansas), 1999, 5-10.
5. WAC 292-100-030. Procedures for Filing Complaints.
6. RCW 42.52.901. Liberal Construction.

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Edition: #709-01-00-0611-2211
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Edition: #004-01-00-0111-0605

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