

Legislative Ethics Board

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COMPLAINT 2021 – NO. 4

In re Morgan
June 23, 2021

ORDER OF DISMISSAL – LACK OF REASONABLE CAUSE

I. NATURE OF COMPLAINT

The complaint alleges that Respondent violated the Ethics in Public Service Act (Act) as follows:

In a December 7th, 2020 introductory meeting between the Washington BLM Alliance and Respondent, Respondent screamed at, interrupted, belittled, yelled at, yelled over, mocked, and laughed at representatives of BLM.

Between February 22-24, 2020, BLM became aware that Rep. Morgan was making open comments about BLM and its representatives that could be perceived as threatening.

Beginning on or about March 1, 2021, in a community meeting setting, Respondent compared Washington BLM Alliance to the Proud Boys. Respondent then targeted two staff by name and labeled them as terrorists.

Between March 1-9, 2021, Respondent allegedly repeated her attack that BLM is akin to the Proud Boys and has continued to target and name staff when comparing them to terrorists.

Between March 1-9, 2021, while in a conversation with a potential candidate for public office, Respondent indicated she would endorse the individual and then stated the individual should fire one of the people hired to manage the campaign, who is also one of the people Rep. Morgan named, and then directly likened to a terrorist, on multiple occasions days prior.

The complaint further alleges that “per the Legislative Code of Conduct, that includes but may not be limited to the expectation that members of the legislature a) treat all others with respect, dignity, and civility, regardless of status or position, and b) refrain from engaging in hostile, intimidating, offensive, or unlawful activities or behaviors that may amount to discrimination, harassment, sexual harassment, or bullying.” Although the complaint does not cite a specific statute that has been violated, the allegations were investigated under RCW 42.52.070 (special privileges).

II. JURISDICTION

The Board has personal jurisdiction over Respondent. RCW 42.52.320. The Board has concurrent subject matter jurisdiction over the alleged violations of the Legislative Code of Conduct¹ to the extent those alleged violations also constitute alleged violations of the Act. The Board has subject matter jurisdiction over the alleged violations of RCW 42.52.070.

III. PROCEDURAL HISTORY

Complaint 2021 – No. 4 was received by Board counsel on March 9, 2021, and was discussed during the Board’s regularly scheduled meeting on June 3, 2021.

IV. FINDINGS OF FACT

1. Respondent is a member of the state House of Representatives representing the 29th Legislative District. She has served in the House of Representatives since 2018.

A. Meeting on December 7, 2020

2. Three people representing the Black Lives Matter Alliance (BLM) were present at the December 7, 2020 meeting with Respondent. The meeting was held virtually.
3. The purpose of the meeting was for the BLM to discuss its 2021 legislative agenda with Respondent.
4. Complainant stated that she was very uncomfortable in the meeting and was taken aback by Respondent’s response to the BLM and their discussion in general.
5. Another attendee of the meeting stated that the December 7th meeting was the first meeting he had had with Respondent and he was surprised at how hostile the meeting was.

¹ The legislature adopted the Legislative Code of Conduct in House Concurrent Resolution 4401 during the 2019 session. The Code of Conduct provides as follows:

The Legislature is committed to maintaining a professional and respectful environment for all members of the legislative community.

As stewards of the public trust each member of the legislative community is expected to:

- *Conduct themselves with self-awareness, self-respect, and professionalism;*
- *Treat all others with respect, dignity, and civility, regardless of status or position; and*
- *Refrain from engaging in hostile, intimidating, offensive, or unlawful activities or behaviors that may amount to discrimination, harassment, sexual harassment or bullying.*

This Code of Conduct applies equally and at all times to all members of the legislative community, both on and off the capitol campus.

6. The third attendee stated that in the meeting Respondent interrupted them, talked over the attendees, rolled her eyes and made general negative comments about the BLM.
7. Respondent's LA attended the meeting and had no recollection that anything unusual occurred during the meeting. She also stated that the BLM representatives did most of the talking in the meeting.
8. Respondent indicated that the BLM representatives came in with an attitude when they met with her. Respondent discussed the BLM legislative agenda and also mentioned the Juneteenth bill that she was sponsoring.

B. Community Meeting in March 2021

9. The complaint alleged that at a community meeting in Pierce County sometime in March 2021, Respondent compared the BLM movement to the Proud Boys.²
10. Respondent denies she ever compared the BLM movement to the Proud Boys.
11. Although a person interviewed as part of the investigation of this complaint indicated there were witnesses to Respondent's comments, she would not provide their names and no one came forward to corroborate this allegation.

C. Discussion with Mayoral Candidate

12. The complaint alleges that Respondent told a local mayoral candidate, that she (Respondent) would endorse the candidate only if she fired one of her campaign staff.
13. Respondent indicated that she told the candidate that she would endorse her and did not make the endorsement contingent on the candidate firing a campaign staffer.
14. The mayoral candidate indicated that she could not recall having a conversation with Respondent about Respondent's endorsement being contingent upon the dismissal of one of her campaign staff.
15. The campaign staff person in question indicated that he knew of no endorsement of the mayoral candidate being contingent upon his firing.

D. Threatening Remarks

16. Although the complaint alleges that Respondent made threatening remarks about the BLM, this allegation could not be corroborated.

² The Proud Boys is a far-right, neo-fascist, chauvinist, and exclusively male organization that promotes and engages in political violence in the United States. WIKIPEDIA

E. Comparing BLM to Proud Boys

17. Although the complaint alleges that Respondent, in a public meeting, compared the BLM movement to the Proud Boys, this allegation could not be corroborated.
18. Respondent denies she made this comparison.

V. ANALYSIS AND CONCLUSIONS OF LAW

A. Legislative Code of Conduct

The legislature adopted the Legislative Code of Conduct by virtue of House Concurrent Resolution 4401 during the 2019 session. The Code of Conduct provides as follows:

The Legislature is committed to maintaining a professional and respectful environment for all members of the legislative community.

As stewards of the public trust each member of the legislative community is expected to:

- *Conduct themselves with self-awareness, self-respect, and professionalism;*
- *Treat all others with respect, dignity, and civility, regardless of status or position; and*
- *Refrain from engaging in hostile, intimidating, offensive, or unlawful activities or behaviors that may amount to discrimination, harassment, sexual harassment or bullying.*

This Code of Conduct applies equally and at all times to all members of the legislative community, both on and off the capitol campus.

The Board has no enforcement authority with respect to alleged violations of the Code of Conduct. To the extent that facts and circumstances are alleged to violate both the Code of Conduct and the Ethics Act, the Board has enforcement authority pursuant to the Ethics Act.

B. Special Privileges

RCW 42.52.070(1) prohibits a legislator from using his or her position to obtain something someone similarly situated would not be able to obtain. Pursuant to an amendment made to the special privileges statute during the 2019 session, the legislature also included in pertinent part the following language:

(2) For purposes of this section, and only as applied to legislators and employees of the legislative branch, "special privileges" includes, but is not limited to, engaging in behavior that constitutes harassment. As used in this section:

(a) "Harassment" means engaging in physical, verbal, visual, or psychological conduct that:

- (i) Has the purpose or effect of interfering with the person's work performance;*
- (ii) Creates a hostile, intimidating, or offensive work environment*

....

In 2019, the Board adopted Rule 7 setting forth the purpose and scope of the Board's consideration of harassment complaints under RCW 42.52.070. Rule 7 states as follows:

In considering complaints that a legislator or legislative staff has engaged in behavior that constitutes harassment, the Board will apply the following substantive standards:

(1) Reasonable person standard. If a reasonable person similarly situated would not view the conduct that is the subject of the complaint as constituting harassment, the Board will not view the conduct as harassment.

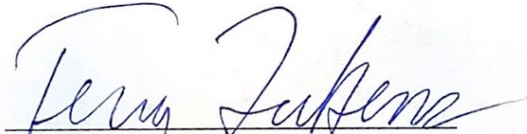
(2) Substantial interference standard. In interpreting the provision that defines harassment as conduct that has the purpose or effect of interfering with the person's work performance, the Board will find only substantial interference to be the basis for a reasonable cause finding.

In the only case to date decided by the Board under the harassment provisions of RCW 42.52.070, the Board interpreted the phrase "work environment" in the statute to encompass more than just the employer-employee relationship. The Board stated "there are many people involved in the legislative work environment, e.g. lobbyists, constituents, agency personnel. If the Board were to interpret the term "work environment" narrowly to include only legislators and legislative staff, that interpretation would exclude from the reach of the statute many people not employed by the legislature but who are an integral part of the legislative work environment." *In re Morgan*, 2020 – No. 3. As a result, the complainant, as an "integral part of the legislative community," could be included in the "work environment" as defined in the *Morgan* opinion. The question is whether she or the other people involved in this complaint were harassed.

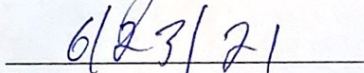
Many of the allegations in the complaint could not be corroborated or there was significant disagreement as to what occurred in a meeting or what Respondent did or said. However, even if the allegations against Respondent could be corroborated, the Board does not believe that Respondent's behavior or statements, as alleged in this complaint, constitute harassment as that term is defined in RCW 42.52.070 and interpreted in Board Rule 7.

VI. ORDER

IT IS HEREBY ORDERED: that reasonable cause does not exist that Respondent, Rep. Morgan, violated RCW 42.52.070.



Judge Terry Lukens, ret., Chair



Date