

Nancy Vernon

July 24, 2006

Washington State Executive Ethics Board
2425 Bristol Court SW
P.O. Box 40149
Olympia, WA 98504-0149

Dear Washington State Executive Ethics Board:

I am requesting a review of the Executive Ethic's Board Director's dismissal of EEB Case No. 04-048 (Terry Bergeson), EEB Case No. 04-049 (Shirley McCune) and EEB Case No. 04-050 (Andrew Griffin). I do not believe all the evidence presented was reviewed nor do I believe a proper preliminary investigation was conducted. I have numerous concerns with the Director's findings and listing of relevant facts. I will list each discrepancy and grounds for the Board's determination that there is reasonable cause to believe that a violation of the Ethics in Public Service Act has occurred by the individuals referenced. Unless noted otherwise, I will refer to the relevant facts in EEB Case No. 04-048, which relates to all three cases.

Discrepancy 1

According to the preliminary investigation report dated July 13, 2006, the Board's staff did not review all submitted evidence. Specifically the following documents were not reviewed.

- Proposed Carkhuff thinking Systems (CTS) Work – 1999 to 2000—A version
- Proposed Carkhuff Thinking Systems (CTS) Work – 1999 to 2000 (October 26, 1999 version)—B version
- Pre-proposal for upcoming RFP submitted by CTS on October 26, 1999
- Purchase Orders for HRD Press
- Proposal for RFP from CTS dated April 14, 2000
- *The New Possibilities Teacher* book
- HRD Press letter faxed to the OSPI on January 13, 2000 addressed to Dr. Shirley McCune
- A 40-page report entitled The Unveiling of the Bergeson Administration's Vision: The Iniquity Exposed Part II

Discrepancy 2

The Board staff does not recognize my July 6, 2004 letter as the initial complaint filed against Terry Bergeson, Shirley McCune and Andrew Griffin. The Director's report dated July 13, 2006, refers to my complaint as a "July 6, 2004 letter from Nancy Vernon to Brian Malarky." There is no reference to the letter as being the complaint and having attached a 40-page report that details the specific allegations and supporting evidence.

Instead, the Director refers to the August 9, 2004 letter as the complaint. This letter and enclosed documents were additions to the July 6, 2004 complaint letter and 40-page report. According to the July 13, 2006 preliminary investigation report, a number of documents submitted with the August 9, 2004 letter were not reviewed by the Board staff (see list above).

Discrepancy 3

According to the July 13, 2006 report of the preliminary investigation, the Board staff reviewed three of the federal grants and did not review the "Education For the 21st Century" grant.

Discrepancy 4 (relevant fact 1 EEB 04-048)

A relevant fact that was not disclosed by the Director, however, presented in the 40-page report, is that Terry Bergeson was the Executive Director of the Commission on Student Learning and developed, in consultation with Dr. Robert Carkhuff, the Essential Academic Learning Requirements (EALRs). Carkhuff received a contract from the Commission to provide consultation. He was given contract No. C0552-35 dated June 19, 1995. This contract was originated by Dr. Terry Bergeson and no longer exists because the contract has been destroyed (see attachment A).

A letter dated January 1994 suggests that Robert Carkhuff may have had another contract. In the letter, Bergeson requests his assistance in "pulling the foundation skill areas together in a powerful way." In 1995, visual graphics are produced by Carkhuff Thinking Systems to demonstrate the conceptual framework used in designing the EALRs (see attachment B).

Both of these facts are relevant because the relationship between Robert Carkhuff and Dr. Terry Bergeson in relation to the Washington State education reform started before Terry Bergeson took office in 1997.

Discrepancy 5 (relevant fact 2 EEB 04-048)

If the Board staff had reviewed the "Education For the 21st Century" grant, they would have found that Dr. Carkhuff is a self-proclaimed and self-published

scientist. The grant documents contain a one-page flier of Dr. Robert Carkhuff (see attachment C). Carkhuff does not back his claims of being “one of the most-cited social scientists of our time according to the Institute for Scientific Information” and for being the “author of three of the 100 books most referenced by social scientists according to the Institute for Scientific Information.” In the preliminary investigation report, the Board Director notes Carkhuff, “is nationally known for his ability to develop effective programs and skills-training programs to implement them. He is cited as one of the 100 most important social scientists of all times since his work has significantly defined the fields of counseling, organization development and social policy.” The Board Director does not reference the source of this information.

In a recent newspaper article (July 19, 2006), the Snohomish County *Tribune* news reporter Kristin Kline reported

Carkhuff wrote in one of his books he published in the 70's he was kicked out of medical school for training orderlies to administer his psychological training practices.... The *Tribune*, with assistance of a librarian at the Snohomish library, could find no record of Carkhuff cited in any peer or professional journal or books, in at least the last two decades. Earlier works of Carkhuff are cited in psychology journals but are decades old....[Don] Orlich, professor emeritus of the Science Mathematics Engineering Education Center at Washington State University, has published more than 100 professional papers, co-authored more than 30 monographs and books, and is the senior co-author of *Teaching Strategies: A guide to Effective Teaching*, published by Houghton Mifflin in 2004....When asked if he was familiar with Carkhuff's work [responded in an e-mail], “All I can say is that Robert Carkhuff is virtually unknown to anyone who is in educational psychology or psychology period.” (See attachment D)

If the Board staff had reviewed the Carkhuff contract proposal, they would have noticed that Carkhuff Thinking Systems list only one contract reference relating to his ability to perform services, the reference was Dr. Shirley McCune, Office of the Superintendent of Public instruction, Olympia, Washington. The documentation of products produced and used as references are 19 publications by HRD Press (Carkhuff's publishing company), the publication dates are 2000 (authors include Terry Bergeson, Andrew Griffin and Shirley McCune). One other publication is listed and authored by Shirley McCune, published in 1991 by American Society for Curriculum Development (see attachment E).

The Board staff claim they reviewed the grant “Linking Educational Reform and Educational Technology” signed by Terry Bergeson on February 19, 1998. In their review, they should have found that the only reference to Carkhuff Thinking Systems (CTS) is under the budget plan, which notes CTS would receive \$400,000 as an “identified contractor”. There is no resume or information

discussing CTS under the “Identified Contractor” section. In fact, the grant does not contain any information about CTS, other than CTS is budgeted to receive \$400,000. This fact is also noted in the 40-page document submitted with my July 6, 2004 complaint.

Discrepancy 6 (relevant fact 3 EEB 04-048)

If the Board had reviewed the HRD purchase orders and the publications produced by Robert Carkhuff that were purchased by OSPI and presented as public documents, the Board would have found that Carkhuff references one study. This study was performed in 1965. Andrew Griffin was part of this study (*The New Science of Possibilities*, 2000, p.229-231). Further research into Carkhuff publications discloses another study performed by the Office of the Superintendent of Public Instruction (OSPI). The study is referenced in the *Tribune* news article dated July 19, 2006. The reporter wrote,

In a book Carkhuff co-wrote titled *The Freedom Doctrine*, he mentions “Ethnic Think Tank” studies conducted by assistant superintendent Andrew Griffin as a model proving his “possibilities schools theories.” In those studies, Griffin used black infants in the rural South to prove blacks fail to gain high IQs if they are left alone to be raised by their black parents and subculture. Carkhuff uses this case study to show black children raised without outside intervention live in what Carkhuff terms a “retarded culture.” (See attachment D).

These studies were noted in *The Freedom Doctrine* as being a part of the Unity Project, an OSPI project.

Another study conducted on Carkhuff’s HRD model was by Dr. Terry Bergeson in her 1982 dissertation. Bergeson sought out to prove that Carkhuff’s HRD model would improve math skills and attitudes. The study concluded that four of her five hypotheses failed. Bergeson notes in her dissertation, “she has had over 120 hours of training in the Carkhuff HRD model and five years experience teaching and developing curriculum applications of the model.” (See attachment F)

Discrepancy 7 (relevant facts 4 and 19 EEB 04-048)

If the Board staff had reviewed the Carkhuff proposal and the 40-page report, they would not have limited the co-authoring of books of Terry Bergeson and Robert Carkhuff to the HRD press 1984 publication *The Productive Teacher 1: An Introduction to Curriculum Development*. Dr. Bergeson co-authored two other books with Robert Carkhuff: HRD Press 1984 publication, *The Productive Teacher 2: An Introduction to Instruction*, and HRD Press 2000 publication, *The Possibilities Education: The Super-Vision* (see attachment E). I notified the Board staff in my 40-page report that the *The Possibilities Education: The Super-*

Vision was co-authored by Terry Bergeson and that Carkhuff claims in his April 14, 2000 proposal that the book is an HRD Press 2000 publication. In August 2000, Carkhuff bills \$10,000 dollars for the development of *The Super-Vision*. I wrote the following in my 40-page report.

Publication number 5: *The Possibilities Education: The Super-Vision*, coauthored by Terry Bergeson, Robert Carkhuff, Andrew Griffin and Shirley McCune, and published by HRD Press 2000, is listed in Carkhuff Thinking System's August 2000 billing as being developed by Robert Carkhuff in July 2000 at the cost of \$10,000. Even though, it is listed in the proposal of April 14, 2000 as already in print and published by HRD Press, the OSPI reimburses Carkhuff Thinking Systems \$10,000 for *The SUPER-Vision*.

The Board's staff would have also found that the publication *The Possibilities Principal* does indeed exist in publication form. Carkhuff presents the book as a published book in his proposal. He notes the book is authored by McCune and is an HRD press 2000 publication (see attachment E). I specifically address the issue of the *Possibilities Principal* and the *Possibilities Principal: the New 3Rs Skills Kit* in the 40-page report. The Board's staff claim they reviewed the Carkhuff billing statements, if so they would have found the specific billing for *Possibilities Principal: the New 3Rs Skills Kit* proving the books were produced and delivered. I specifically wrote the following in my 40-page report.

The Possibilities Principal

Shirley McCune's book *The Possibilities Principal* is the book the OSPI has failed to provide for inspection; the book is mentioned as a product deliverable of the LINKS grants—R303K000037 grant titled *Possibilities Schools* list *The Possibilities Principal* as a product of the LINKS grant R215R980003 and R215R990023. The book is also referenced in an email dated, October 9, 2000, sent to Shirley McCune from Andrew Griffin. Andrew Griffin writes, "As you know I gave [the Principals] copies of Human Possibilities and the drafts of Principals, The New 3Rs for Parents, and The New 3R's for Teachers." Aside from the references to the book, it is listed in Carkhuff Thinking Systems April 14, 2000 proposal under the section "The Possibilities Schools Curricula" that the *Possibilities Principals*, authored by Shirley McCune was published by HRD Press in 2000. To compliment the book Carkhuff Thinking Systems produced *The Possibilities Principal: The New 3Rs Skills-Kit* as part of contract 120-486. It is listed in the Carkhuff billing statements for work accomplished March 2001 to June 2001 that it cost \$2,600 to develop the Skills-Kit.

I have formally requested to receive all products developed from the LINKS Project grants and all products developed from the Carkhuff Thinking Systems' grants, and have not received *The Possibilities*

Principal books. Even when I specifically requested to receive copies of *The Possibilities Principal*, I was informed per an email, dated March 22, 2004, from Jackie Hansman, Shirley McCune's secretary, that "Shirley McCune said that the Possibilities Principals book was never published—due to lack of budget." Jackie Hansman asked Andrew Griffin's office if they had a draft and was told no draft exists—they claim it was never produced due to a lack of funds. I made another formal request on May 7, 2004, to receive the *Possibilities Principal* and *Possibilities Principal: New 3Rs Skills-Kit*; I received a response on May 14, 2004, stating, "On March 22, 2004 we informed you via email that the Possibilities Principals Book was never published, due to a lack of budget. Therefore, we have no document to provide to you." OSPI continues to deny the books exist even though CTS claims to have published the *Possibilities Principal*, the book is referenced in an email as being distributed, CTS billed for the development and delivery of the *Possibilities Principal: New 3Rs Skills-Kit*, and the books are referenced in the final grant as a LINKS product, yet the OSPI adamantly claims they have no document to provide me.

Because the Board's staff limited its review of documents, they found that the accused did not intentionally conceal public documents. Therefore, the Board Director claims the allegations are unfounded. Since the Board has limited its document review, I am enclosing a copy of the email dated October 9, 2000, which notes the distribution of the *Principals* (see attachment G).

Discrepancy 8

According to Washington Administrative Code (WAC 292-100-042), the Board staff can determine that a complaint alleges conduct which may violate a criminal statute, the staff may refer the complaint to the appropriate law enforcement authority. If the Board staff had reviewed the 40-page report, Carkhuff pre-proposal documents dated October 26, 1999 and proposal documents attached to the CTS April 14, 2000 submittal letter for an OSPI competitive bid, they would have found evidence suggesting criminal activity. I specifically noted the issue of McCune offering CTS pre-proposal advice for an upcoming competitive bid in the 40-page report. I discussed the proposal process in the following way.

Contract Number 120-486: \$667,000

On October 26, 1999, Dr. McCune received a letter from Carkhuff Thinking Systems requesting input on their detailed attached plan for implementation of the forthcoming RFP for a \$667,500 contract. The letter requested that Dr. McCune "advise [them] as to any modifications [she] think[s] are appropriate." The letter also noted the following:

- The first plan is a one-page table to present how we might best use the final \$100,000 of our current contract. The table is titled: *Detailed cost estimates for new 3Rs Kids Pilot...etc.*
- The second plan is a proposal for how CTS could respond to your request for development of WEB-materials. It is titled: *The Possibilities Schools and The New 3Rs.*
- The third plan is an updated proposal for how CTS could respond to your request for the delivery of 5 conferences, one to each participating LINKS states. It's titled: *State Conferences—The Possibilities Schools and The New 3Rs.*

Ultimately, Carkhuff Thinking Systems was awarded the contract, after a competitive bidding process took place in April 2000. Upon review of the documents associated to Carkhuff Thinking Systems contract I realized that another proposal was received from a company named Inner Path; however, when I requested Inner Path's proposal the OSPI informed me that the proposal and evaluation results had been destroyed. In fact, on October 27, 2003, Dr. McCune signed the following statement confirming the destruction of the proposal and I assume evaluation results, I mentioned this briefly on page 6 of this report:

The RFP advertised in April of 2000 was responded to by Carkhuff & Inner Path. The proposals were reviewed by: Dr. Lee Mahon, Fielding Institute, San Francisco, CA; Dr. Jessel Koyioski, (deceased) Superintendent, San Francisco area; **Dr. Lee Drogemeuler, Former CCSSO**—Kansas, Professor South Florida University, Pensacola, Fla. The Contract was awarded to Carkhuff Thinking Systems. Due to limited storage space the proposal by Inner Path was destroyed after a 2 year period.

The evaluator Dr. Lee Drogemeuler may have a conflict of interest due to the fact he is co-author with Carkhuff, McCune and Griffin of *The New Possibilities Leader*; this is noted on the Possibilities Schools website advertisement of the book, as presented on page 20 of this report.

The RFP No: 743, title: Web-Enhancement Materials for Possibilities Schools: LINKS Project, Proposal Due Date: April 17, 2000, required the submittal of a signed "Certification and Assurances" document. Robert Carkhuff signed the document on April 14, 2000, and presented it along with his proposal and letter of submittal on April 14, 2000. The document specifically certifies and assures the following:

In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity.

As noted above the October 26, 1999, letter addressed to Shirley McCune provided a detailed proposal, and a request for advisement to “any modifications” she thought appropriate for the upcoming proposal. The October 26, 1999 plan is similar to the April 14, 2000, proposal submitted, in many areas it is exactly the same. Dr. McCune is the Principal Investigator of the LINKS Project and is listed in the RFP as the “RFP Coordinator.”

If the Board’s staff had reviewed the 40-page report and the Carkhuff pre-proposal and final proposal documents, they would have had reason to refer the allegations to law enforcement authorities. RCW 9.18.130 Collusion to prevent competitive bidding reads as follows.

- 1) It shall be unlawful for any person for himself or herself or as an agent or officer of any other person, persons, or corporation to in any manner enter into collusion or an understanding with any other person, persons, or corporation to prevent or eliminate full and unrestricted competition upon any public work or improvement mentioned in RCW [9.18.120](#).
- (2) A person violating this section is guilty of a gross misdemeanor.

An unlawful act of collusion by a public servant is considered official misconduct under RCW 9A.80.010. The Board’s staff does not even mention the collusion suggested in the public documents and addressed in the 40-page report. In order to preserve the integrity of the state and laws that must be enforced by the state, the Executive Ethics Board must request that the Board Director initiate a referral for investigation of criminal violations under RCW 9.18.130 and 9A.80.010 to the appropriate law enforcement agency as provided by the law.

Discrepancy 9

In a telephone conversation on July 20, 2006 with Susan Harris, I was informed that the investigation into whether Terry Bergeson, Shirley McCune and Andrew Griffin received financial gain in co-authoring books with Robert Carkhuff was limited to asking Bergeson, McCune and Griffin if they were paid any money. All three parties claim they did not receive financial payment. Because Bergeson, McCune and Griffin deny financial gain, the Board Director concluded no conflict of interest exists in all three cases.

I believe the evidence and questionable behavior of the parties involved do not provide the Board staff with the opportunity to limit the inquiry of financial gain to the parties named in the ethic’s complaint.

If the Board's staff had reviewed all the documents relevant to the three cases, they would have become aware of the unreliable sources of information presented relating to the credentials of Robert Carkhuff and the numerous inconsistencies involving the grants and contracts managed by Bergeson and McCune.

With regard to Terry Bergeson, she has made claims that have put her integrity in question. An example of Bergeson's dishonesty is recorded from KTTH Radio "The Mike Seigel Show." On October 29, 2004, Bergeson was a guest on "The Mike Seigel Show." During the show, Mike Seigel asked Bergeson "Did you write your doctoral dissertation about his [Carkhuff] work." Bergeson replied, "Oh no," of course not. It had nothing to do with him." The conversation continues by Mike asking, "You did write a book with him." Bergeson replies, "He put my name in a book. I didn't write a book with him." Mike Seigel then remarked, "You did spend 1000's of dollars buying his books. I've got the purchase orders." Bergeson replied, "No, that's just, that's just actually, that's not true." I can and will make available to the Board, if requested, the audio transcript of this conversation.

Bergeson's 1982 doctoral dissertation set out to prove the following, as taken directly from her dissertation.

1. Treatment HRD will result in significantly greater improvement in intermediate teachers' attitudes toward teaching mathematics than will Treatment E.
2. Teachers and counselors from Treatment HRD will be able to communicate significantly more helpful responses to student t- or peer-presented mathematics problems than will teachers or counselors in Treatment E.
3. Treatment HRD will result in a significantly greater increase in teachers' and counselors' spatial and mathematics abilities than will Treatment E.
4. Treatment HRD will reduce mathematics anxiety in teachers and counselors significantly more than will treatment E.
5. Treatment HRD will improve attitudes toward mathematics as measured by the Fennema-Sherman scales significantly more than Treatment E.
(See attachment F, abstract)

Bergeson describes on pages 55-56 of her doctoral dissertation that Treatment HRD is "Carkhuff's Human Resource Development model is such an integrated insight-action approach. It includes a learning process, helper skills to facilitate the learner's movement through the process, and helping outcomes." Bergeson provides a detailed model and discussion of the HRD model (see attachment F).

Bergeson denies that OSPI purchased 1000's of dollars worth of Robert Carkhuff books. The Board staff was provided with the HRD purchase orders and the billing statements that list numerous books published by Robert Carkhuff's publishing company, HRD Press, and authored by Robert Carkhuff.

With regard to the books Bergeson co-authored with Carkhuff, please refer to the section in this letter discussing *Discrepancy 7*.

Discrepancy 10 (relevant facts 9 and 10 EEB 04-048)

The Board's staff refers to the State Auditor's letter, in which the State Auditor's Office informs me there are no contracts currently between Robert Carkhuff and OSPI. The State Auditor's Office did not review any of the Carkhuff contracts; therefore, the Auditor's findings are irrelevant, and in turn document the failure of the State Auditor's Office to enforce OSPI contract compliance.

Discrepancy 11 (relevant fact 15 EEB 04-049)

The Board's staff makes an assumption that is not accurate when claiming the notes that were removed from the public documents received in relation to the CTS deliverables were "private notes unrelated to OSPI business." The notes that discussed the building of a Temple and its messages include notes that discussed the test score improvement of the Washington Assessment of Student Learning (see attachment H).

Discrepancy 12

The Board's staff briefly discusses the LINKS Learning website (developed with the grant funds in question) and its "Life Ready" link that directed students to explore websites that were sexually explicit and invited students to link to websites containing pornographic material. I invite the Board to request of the U.S. Department of Justice to share their findings with regard to the FBI's investigation into whether the allegations of OSPI linking minors to pornographic material involved a violation of the obscenity statutes. On July 1, 2004, the U.S. Department of Justice sent me a letter informing

We are forwarding the materials you sent us listing your various allegations to the FBI with a request that they verify if your allegations have been investigated. If they determine your allegations have not been investigated, we are asking the FBI to conduct any investigation necessary to determine whether your allegations involve a violation of the obscenity statutes. (See attachment I)

Conclusion

I believe the Executive Ethics Board staff's preliminary investigation was

- limited to selected documents, which support the desired outcome; and
- presented in a manner that suggests the information to support the allegations does not exist, or was not presented by the complainant.

It appears the preliminary investigation was performed in haste, with incompetence or with a bias towards Washington State risk management, or all of the above. In addition, the preliminary investigation gives the appearance that the Executive Ethics Board condones malfeasant behavior by public servants.

I believe it is important to stress to the Board that Dr. Bergeson is the State Superintendent who oversees 60% of the general state budget and her actions influence the academic success, or failure, of our students as well as their emotional and physical well-being. The Board's Executive Director's dismissal of the allegations presented in my July 6, 2004 complaint, supporting report and additional claims and documents is irresponsible and what I believe to be an act of malfeasance by the Executive Ethics Board staff.

Sincerely,

Nancy Vernon

cc: Governor Christine Gregoire
Attorney General Rob McKenna
U.S. Chief Attorney General Jeff Sullivan
State Auditor Brian Sonntag
Speaker of the House Frank Chopp

Attachments

- A. February 21, 2006 Letter from OSPI and August 11, 2004, OSPI Memo (2 pages)
- B. January 1994 letter and 1995 letter to CSL participants and Carkhuff visual graphics (46 pages)
- C. Carkhuff one-page flier of credentials (1 page)
- D. Snohomish County *Tribune* July 19, 2006 (3 pages)
- E. The Possibilities Schools Curricula –Documentation/References (2 pages)
- F. Terry Bergeson 1982 Doctoral Dissertation (176 pages)
- G. October 9, 2000 email (2 pages)
- H. WASL and Temple Notes (19 pages)
- I. U.S. Department of Justice July 1, 2004 letter (2 pages)