

BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:
Lisa Holstein,
Threat Preparedness Coordinator,
Boone County Health Department

COMPLAINT NO. VCRB 2021-30

Conciliation Agreement

The West Virginia Ethics Commission and Lisa Holstein freely and voluntarily enter into the following Conciliation Agreement pursuant to W. Va. Code § 6B-2-4(t) to resolve all potential charges arising from allegations in the above-referenced Complaint.

Findings of Fact

1. Lisa Holstein ("Respondent") served as the Threat Preparedness Coordinator of the Boone County Health Department ("Health Department") at all times relevant herein.
2. As an employee of a county health department, the Respondent is a "public employee" as defined in the Ethics Act, at W. Va. Code § 6B-1-3(j).
3. The Ethics Commission has jurisdiction over alleged violations of the Ethics Act committed by West Virginia public employees such as the Respondent. W. Va. Code §§ 6B-1-1 through 6B-3-11.
4. Prior to becoming the Threat Preparedness Coordinator, Respondent was the Health Department's Strategic National Stockpile Coordinator.
5. Respondent became the Health Department's Threat Preparedness Coordinator in the summer of 2017.


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6. The day-to-day operations of the Health Department are overseen by the Health Department's Administrator. The Threat Preparedness Coordinator is under the supervision of the Health Department Administrator. The Health Department is also governed by an appointed board of directors.

Sarah Brown

7. Sarah Brown is the Respondent's daughter.

8. Sarah Brown became a part-time employee of the Health Department on October 9, 2017. Her title was Office Assistant II, but she was referred to as the Threat Preparedness Assistant, and she reported directly to Respondent, her mother.

9. The position of Threat Preparedness Assistant did not exist prior to Sarah Brown's hire.

10. Sarah Brown was paid at a rate of \$15 per hour when she was hired by the Health Department. After consulting with the West Virginia Division of Personnel, Respondent changed Sarah Brown's hourly rate to \$12 to make it consistent with the state salaries in the classified service for that position. Sarah Brown did not receive any benefits such as annual leave or health insurance.

11. Respondent facilitated the hiring of Sarah Brown for the Threat Preparedness Assistant job by not advertising for the position and considering only the lone applicant – her daughter.

12. Sarah Brown's hire was never on a Health Department Board agenda, nor did the Board formally vote to approve the hire. There is disagreement between the

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Respondent and the Health Department regarding whether the Health Department administration knew that Sarah Brown would be hired.

13. It appears undisputed, however, that after Sarah Brown was hired, the Health Department Administrator (now former) knew that Sarah Brown was employed by the Health Department, worked for the Respondent, and was the Respondent's daughter.

14. The Respondent states that no Health Department administrator, employee, or Board Member directed the Respondent to contact the Ethics Commission to determine whether her daughter's employment and supervision complied with the nepotism restrictions in the Ethics Act. The Respondent states that the Health Department did not raise the issue of whether her daughter could be employed by the Health Department until the spring/early summer of 2021. The new Health Department Administrator, on behalf of the Board of Health and in consultation with the West Virginia State Auditor's Office, filed the instant complaint against the Respondent on June 17, 2021, regarding, in relevant part, its concerns about the employment and Respondent's direct supervision of her daughter.

15. The Respondent admits that she did not contact the Ethics Commission to seek advice on whether it was permissible for her to be involved in the employment or supervision of her daughter.

16. Sarah Brown's job duties included organizing supplies and equipment, inputting data into the computer system for tracking supplies and equipment, preparing materials and supplies for health fairs, and inputting testing and vaccine data.

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17. The Respondent directly supervised Sarah Brown by assigning her daily tasks and participating in decisions related to reviewing Sarah Brown's work.

18. Sarah Brown primarily performed work for the Respondent, but she would occasionally perform work for other Health Department employees.

19. Sarah Brown ceased being employed as the Threat Preparedness Assistant in approximately June 2019. Her final paycheck as the Threat Preparedness Assistant was issued by the Health Department on June 28, 2019.

20. Between September 16, 2019, and June 25, 2021, Respondent then asked Sarah Brown to perform work for the Health Department as a non-W2 worker to work COVID clinics. Sarah Brown was paid an additional \$920.93 by the Health Department for this work and was paid with COVID funds.

21. Sarah Brown is no longer employed by the Health Department.

Matthew Holstein

22. Matthew Holstein is the Respondent's son.

23. Matthew Holstein began work as a part-time employee of the Health Department on August 19, 2019.

24. Per the Division of Personnel rules, his title was Office Assistant II, but he was referred to at the Health Department as the Threat Preparedness Assistant.

25. Matthew Holstein's title was changed to Health and Human Resources ("HHR") Associate on November 4, 2019, per the advice of a West Virginia Division of

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Personnel Specialist. The title change request was submitted by the Respondent but did not result in any change in salary.

26. Matthew Holstein was paid at a rate of \$12 per hour, and he did not receive any benefits such as annual leave or health insurance. Matthew Holstein reported directly to Respondent, his mother.

27. Respondent facilitated the hiring of Matthew Holstein for the Threat Preparedness Assistant position by not advertising for the position and considering only the lone applicant – her son.

28. Matthew Holstein's hire was never on a Health Department Board agenda, nor did the Board formally vote to approve the hire. There is disagreement between the Respondent and the Health Department regarding whether the Health Department administration knew that Matthew Holstein would be hired.

29. It appears undisputed, however, that after Matthew Holstein was hired, the Health Department Administrator (now former) knew that Matthew Holstein was employed by the Health Department, that he worked for the Respondent, and that he was the Respondent's son.

30. The Respondent states that no Health Department administrator, employee, or Board Member directed the Respondent to contact the Ethics Commission to determine whether her son's employment and supervision complied with the nepotism restrictions in the Ethics Act. The Respondent states that the Health Department did not raise the issue of whether her son could be employed by the Health Department until the spring/early summer of 2021. The new Health Department Administrator, on



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behalf of the Board of Health and in consultation with the West Virginia State Auditor's Office, filed the instant complaint against the Respondent on June 17, 2021, regarding, in relevant part, its concerns about the employment and Respondent's direct supervision of her son.

31. The Respondent admits that she did not contact the Ethics Commission to seek advice on whether it was permissible for her to be involved in the employment or supervision of her son.

32. Matthew Holstein's job duties included organizing supplies and equipment, inputting data into the computer system for tracking supplies and equipment, preparing materials and supplies for health fairs, and inputting testing and vaccine data.

33. The Respondent directly supervised Matthew Holstein by assigning him daily tasks and participating in decisions related to reviewing Matthew Holstein's work.

34. Matthew Holstein primarily performed work for the Respondent, but he would occasionally perform work for other Health Department employees.

35. Following the filing of this Ethics Complaint, Matthew Holstein has not performed any services for the Health Department nor has he been compensated by the Health Department.

36. Respondent is no longer employed by the Health Department.

Relevant Legal Provisions

W. Va. Code 6B-2-5(b)(4) states, in relevant part:

A public official or public employee may not show favoritism or grant patronage in the employment or working conditions of his or her relative or a person with whom he or she resides

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W. Va. Code R. § 158-6-3 (2017) states:

3.1. As used in this section, the term "nepotism" means favoritism shown or patronage granted in employment or working conditions by a public official or public employee to relatives or persons with whom the public official or public employee resides.

3.2. The Ethics Act prohibits public officials and public employees from knowingly and intentionally using their office or the prestige of their office for their own private gain or the private gain of another person. Nepotism is one form of the use of office for private gain because if public officials or employees use their positions to give an unfair advantage to relatives or persons with whom the public official or employee resides, the primary benefit to such action is to the public official or employee or another person rather than to the public.

3.3. "Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

3.4. A public official or employee may not influence or attempt to influence the employment or working conditions of his or her relative or a person with whom he or she resides.

3.5. A public agency, including its officials and employees, must administer the employment and working conditions of a relative of a public employee or a public official or a person with whom the public official or employee resides in an impartial manner.

3.5.a. To the extent possible, a public official or public employee may not participate in decisions affecting the employment and working conditions of his or her relative or a person with whom he or she resides. If he or she is one of several people with the authority to make these decisions, others with authority shall make the decisions.

3.5.b. A public official or public employee may not directly supervise a relative or a person with whom he or she resides. This prohibition includes reviewing, auditing or evaluating work or taking part in discussions or making recommendations concerning employment, assignments,

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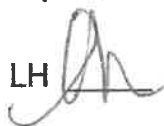
compensation, bonuses, benefits, discipline or related matters. This prohibition does not extend to matters affecting a class of five or more similarly situated employees.

Conciliation of Violations

I, Lisa Holstein, the Respondent, admit that I violated the West Virginia Governmental Ethics Act, at W. Va. Code § 6B-2-5(b), and the nepotism restrictions in the Ethics Commission's Legislative Rule, at W. Va. Code R. § 158-6-3 (2017), due to my participation in hiring and directly supervising my daughter Sarah Brown and my son Matthew Holstein as Threat Preparedness Assistants. I acknowledge that I should have contacted the West Virginia Ethics Commission to determine whether it was permissible for me to participate in decisions affecting the employment of my son and daughter and for me to directly supervise them. I recognize that, even though the Health Department Administration knew my son and daughter were employed by the Department and were performing work for me, this fact does not immunize me from prosecution under the Ethics Act. I agree with the facts and law as stated above, but I believe that it was the duty of the person who served as the Health Department Administrator when my daughter and son were hired, to tell me that I could not be involved in hiring or supervising them.

In order to resolve this matter, I am entering into this Conciliation Agreement. I understand that for this Agreement to be finalized, the Ethics Commission must approve it and determine which sanctions to impose.

In consideration for the settlement of this matter, I agree to the Commission's imposition of the following sanctions:

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1. A public reprimand.
2. The Respondent shall undergo training on the West Virginia Governmental Ethics Act within 30 days of the entrance of the Order approving the Conciliation Agreement.
3. A fine in the amount of \$2,000 to be paid to the West Virginia Ethics Commission within 30 days of the entrance of the Order approving the Conciliation Agreement.
4. An Order directing me to cease and desist from directly supervising my son or daughter or being involved in matters affecting his or her employment and working conditions at the Health Department in the event that my son or daughter and I are employed by the Health Department in the future.

I understand and agree that if the Ethics Commission fails to approve this Conciliation Agreement, then this Conciliation Agreement is null and void and the Complaint against me will proceed before the Probable Cause Review Board, where it will be processed in accordance with the West Virginia Code and Ethics Commission's Legislative Rules.

If the Ethics Commission approves the Agreement, it will enter an Order in which it approves the Agreement and sets forth the sanctions listed above.

Both parties understand that, pursuant to West Virginia Code § 6B-2-4(t), this Conciliation Agreement and Commission Order must be made available to the public.

8/4/22
Date

Robert J. Wolfe
Robert J. Wolfe, Chairperson
West Virginia Ethics Commission

06/20/2022
Date

Lisa Holstein
Lisa Holstein, Respondent

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BEFORE THE WEST VIRGINIA ETHICS COMMISSION

IN RE:

COMPLAINT NO. VCRB 2021-30

**Lisa Holstein,
Threat Preparedness Coordinator,
Boone County Health Department**

COMMISSION'S ORDER

After considering the Findings of Fact, Relevant Legal Provisions, and Conciliation of Violations in the Conciliation Agreement, the West Virginia Ethics Commission finds that the Conciliation Agreement is in the best interests of the State and Lisa Holstein, as required by W. Va. Code § 6B-2-4(t). In accordance with W. Va. Code § 6B-2-4(s), the Commission imposes the following sanctions:

1. Respondent shall be publicly reprimand;
2. Respondent shall undergo training on the West Virginia Governmental Ethics Act, either in person, virtually, or by viewing the training provided on the Ethics Commission's website at www.ethics.wv.gov before September 6, 2022. Respondent shall provide written confirmation of the completion of this training to the Ethics Commission within five business days of completing the training;
3. Respondent shall pay a fine in the amount of \$2,000 to be paid to the West Virginia Ethics Commission on or before September 6, 2022, and
4. Respondent shall **CEASE AND DESIST** from directly supervising her son or daughter or being involved in matters affecting his or her employment and working conditions at the Health Department in the event that the Respondent's son or daughter and the Respondent are employed by the Health Department in the future.

8/4/22
Date


Robert J. Wolfe, Chairperson
West Virginia Ethics Commission