

1 **BEFORE THE PERSONNEL RESOURCES BOARD**

2 **STATE OF WASHINGTON**

3 CAROL BELLO,)

4 Appellant,)

5 v.)

6 DEPARTMENT OF SOCIAL AND)
7 HEALTH SERVICES,)

8 Respondent.)

PRB Case No. R-ALLO-08-003

**CORRECTED
ORDER OF DISMISSAL**

9 This matter came before the Personnel Resources Board, LAURA ANDERSON, Chair; MARSHA
10 TADANO LONG, Vice Chair; and JOSEPH PINZONE, Member, for dismissal pursuant to WAC
11 357-52-215 and WAC 357-51-220.

12
13 WAC 357-52-215 provides, “[t]he Board may dismiss an appeal on its own motion when . . . An
14 appeal is not filed on time. . . .”

15
16 Ms. Bello requested a director’s review of the allocation of her position. On December 20, 2007,
17 the director’s designee served the parties with a copy of the director’s determination. The
18 determination notified Ms. Bello and her representative, Phyllis Naiad of the Washington
19 Federation of State Employees (WFSE), of the results of Ms. Bello’s allocation review request. On
20 behalf of Ms. Bello, Ms. Naiad filed exceptions to the director’s determination on January 23, 2008.

21
22 After an initial review of the appeal, on January 24, 2008, Personnel Resources Board staff notified
23 the parties that the appeal was received thirty-four (34) days after the date of the determination.
24 Therefore, it appeared that the appeal was untimely. Pursuant to WAC 357-52-045, Board staff

1 directed the parties to submit affidavits and/or written argument addressing the timeliness of the
2 appeal within twenty-one (21) calendar days of the date of the letter.

3
4 On January 30, 2008, Ms. Naiad submitted written argument asserting that the allocation
5 determination was received by WFSE on December 24, 2007. Ms. Naiad argued that consistent
6 with Article 41.2D of the collective bargaining agreement between the State of Washington and
7 WFSE, the appeal was timely filed.

8
9 Respondent did not provide a response to the issue of timeliness.

10
11 RCW 41.80.020(6) provides, in relevant part, “[a] provision of the collective bargaining agreement
12 that conflicts with the terms of a statute is invalid and unenforceable.”

13
14 RCW 41.06.170(4) provides, in relevant part, “[a]n employee incumbent in a position at the time of
15 its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or
16 reallocation . . . to the personnel resources board . . . Notice of such appeal must be filed in writing
17 within thirty days of the action from which appeal is taken.”

18
19 WAC 357-52-015 provides, in relevant part, “[i]n order to be considered timely, an appeal must be
20 received in writing at the office of the board within thirty calendar days after . . . Service of the
21 director’s determination”

22
23 WAC 357-04-105 provides, in relevant part, that service upon parties “will be regarded as
24 completed . . . upon deposit in the United States mail”

1 Because the appeal appeared untimely, on March 5, 2008, the parties were given notice of potential
2 dismissal. Appellant and Respondent were served with a copy of the notice by mail.

3
4 The notice stated that the appeal would be dismissed unless, within fifteen days following the date
5 of service of the notice, the Board received a written request showing good cause why the appeal
6 should be continued as a pending case. Neither party submitted a response to the notice. Therefore,
7 the appeal should be dismissed.

8
9 The Board having reviewed the file and records herein, being fully advised in the premises, now
10 enters the following:

11
12 **ORDER**

13 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Carol Bello was untimely filed
14 and the appeal is dismissed.

15 DATED AND MAILED this ____ day of _____, 2008.

16 **WASHINGTON PERSONNEL RESOURCES BOARD**

17
18 _____
LAURA J. ANDERSON, Chair

19
20 _____
MARSHA TADANO LONG, Vice Chair

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22 _____
JOSEPH PINZONE, Member