

1 **BEFORE THE PERSONNEL RESOURCES BOARD**

2 **STATE OF WASHINGTON**

3 MAIYIA MOUA , )

4 Appellant, )

5 v. )

6 COMMUNITY COLLEGES OF SPOKANE, )

7 Respondent. )

PRB Case No. R-DSEP-08-002

**ORDER OF DISMISSAL**

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

12  
13 WAC 357-52-215 provides, in relevant part:

14 The board may dismiss an appeal on its own motion when:

15 . . .

16 (4) The board lacks jurisdiction over the subject matter or parties to the appeal . . .

17 On July 11, 2008, the Personnel Resources Board received Greg Davis's July 11, 2008 letter  
18 requesting an appeal on behalf of Maiyia Moua of her disability separation from her position with  
19 Community Colleges of Spokane.

20  
21 A June 12, 2008 letter to Ms. Moua from W. Scott Morgen, Chief Executive Officer for Community  
22 Colleges of Spokane was included with Mr. Davis's July 11, 2008 letter. The June 12, 2008, letter  
23 indicated that Ms. Moua's employment and position were covered by the Collective Bargaining  
24 Agreement between the State of Washington and the Washington Federation of State Employees.

1 Although the June 12, 2008 letter indicated that Ms. Moua could appeal her separation to the Board,  
2 RCW 41.06.170 prohibits such an appeal.

3 RCW 41.06.170 states, in part:

4 . . . (2) Any employee who is reduced, dismissed, suspended, or demoted, after  
5 completing his or her probationary period of service as provided by the rules of the  
6 director, or any employee who is adversely affected by a violation of the state civil  
7 service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to  
8 appeal, either individually or through his or her authorized representative, not later  
9 than thirty days after the effective date of such action . . . to the Washington  
10 personnel resources board after June 30, 2005. . . .

11 (5) Subsections (1) and (2) of this section do not apply to any employee who is  
12 subject to the provisions of a collective bargaining agreement negotiated under RCW  
13 41.80.001 and 41.80.010 through 41.80.130.

14 (Emphasis added).

15 In addition, the Board's rules provide that only employees subject to the statutory jurisdiction of the  
16 Board may appeal separation actions. (See WAC 357-52-010).

17 It appeared that Ms. Moua's position was not subject to the jurisdiction of the Board. Therefore,  
18 pursuant to WAC 357-52-045, by letter dated July 14, 2008, Board staff directed the parties to  
19 provide written argument addressing the Board's jurisdiction in the matter. Written arguments were  
20 to be submitted within twenty-one (21) calendar days of the date of the letter. In addition, the  
21 parties were informed that if the information provided failed to show that Ms. Moua's appeal fell  
22 within the jurisdiction of the Board, the matter may be presented to the Board for dismissal under  
23 the provisions of WAC 357-52-215.

24 Neither party provided a written response to the letter.

25 Subsequently, Board staff served the parties with a Notice of Potential Dismissal. The notice stated  
26 that Ms. Moua's position and the action appealed were covered by the terms of the CBA and that it

1 appeared the Board lacked jurisdiction in the matter. The notice also stated that the appeal would be  
2 dismissed unless, within fifteen (15) calendar days following the date of service of the notice, the  
3 Board received a written request showing good cause why the appeal should not be dismissed.

4 Neither party submitted a response to the notice.  
5

6 In this case, Ms. Moua's position and the action appealed are covered by the terms of the CBA. As  
7 a result, the Board lacks jurisdiction in the matter and the appeal should be dismissed.

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

11 **ORDER**

12 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of the Maiyia Moua v. Community  
13 Colleges of Spokane, PAB Case No. R-DSEP-08-002, is dismissed.

14 DATED AND MAILED this \_\_\_\_ day of \_\_\_\_\_, 2008.  
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16 **WASHINGTON PERSONNEL RESOURCES BOARD**

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18 \_\_\_\_\_  
MARSHA TADANO LONG, Chair

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JOSEPH PINZONE, Vice Chair

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LAURA J. ANDERSON, Member  
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