

concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of certain employees of the University of Washington (employer). An investigation conference was held, and issues were framed. A formal hearing was conducted on October 1, 2003. Executive Director Marvin L. Schurke issued his decision in the matter on February 10, 2004, ruling on various eligibility issues and directing that a representation election be conducted.¹

The representation election was conducted by mail ballot. The tally of ballots issued on April 14, 2004, stated:

Approximate number of eligible voters.	757
Void Ballots	5
Votes cast for SEIU.	396
Votes cast for NO REPRESENTATION	168
Valid ballots counted.	564
Challenged ballots cast.	7
Valid ballots plus challenged ballots.	571
Number of ballots needed to determine election . .	286
Challenged ballots:	
DO NOT affect the outcome of the election	
The results of the election appear to be:	
CONCLUSIVE, favoring [SEIU]	

Thus, the union received the votes of a majority of those eligible, and 110 more votes than were needed for a conclusive result.

The tally of ballots was served on the employer and union on Wednesday, April 14, 2004. Neither of those parties filed any objections under WAC 391-25-590. Objections have been filed by a number of individual employees, and those objections are now before the Commission for determination.

¹ University of Washington, Decision 8392 (PSRA, 2004).

ANALYSISApplicable Legal StandardLegal Standing to File Objections -

Objections filed under WAC 391-45-590 are the exclusive means for parties to a representation case or affected employees to appeal from actions or rulings of the Commission staff. That rule provides:

WAC 391-25-590 FILING AND SERVICE OF OBJECTIONS TO IMPROPER CONDUCT AND INTERIM ORDERS. The due date for objections is seven days after the tally has been served under WAC 391-25-410 or under WAC 391-25-550, regardless of whether challenged ballots are sufficient in number to affect the results of the election. The time period for objections cannot be extended.

(1) Objections by the petitioner, the employer or any intervenor shall set forth, in separate numbered paragraphs:

(a) The specific conduct which the party filing the objection claims has improperly affected the results of the election; and/or

(b) The direction of election, direction of cross-check or other interim rulings which the objecting party desires to appeal to the commission.

(2) *Objections by individual employees are limited to conduct or procedures which prevented them from casting a ballot.*

(3) Any objections shall be filed at the commission's Olympia office as required by WAC 391-08-120(1), and the party filing the objections shall serve a copy on each of the other parties to the proceedings as required by WAC 391-08-120(3) and (4).

(emphasis added). The limited appeal rights embodied in the rule date back to at least 1980, and reflect the long-standing concerns of the Commission for expeditious resolution of questions concerning representation.²

² See *City of Redmond*, Decision 1367-A (PECB, 1982).

The determination of appropriate bargaining units function is delegated by the Legislature to the Commission. RCW 41.56.060. The issue presented in the proceedings before the Executive Director was whether non-supervisory technical employees of the University of Washington Medical Center, School of Medicine, and Department of Laboratory Medicine, should be combined in a single "wall-to-wall" bargaining unit. The union petitioned for such a unit under RCW 41.80.070. The Executive Director properly rejected the employer's request to fragment the unit. The employer would have had legal standing to file objections to that ruling under WAC 391-25-590(1), but has not filed any objection to the Executive Director's ruling on the scope of the bargaining unit.

Application of Standards

Untimely Objection -

The tally of ballots occurred on April 14, 2004, meaning that any objections to the election needed to be filed by April 21, 2004, seven days after the election. WAC 391-25-590.

Ten of the twenty-one objections were filed on or after April 22, 2004. The objections filed on or after April 22, 2004, were clearly untimely, and must be denied on that basis.

Insufficient Filing and/or Service -

Most or all of the remaining objections filed in this case could potentially be denied for insufficiency of service:³

1. Although all of the individuals apparently sent a copy of their objections to the University of Washington, none of them indicate that they have provided service upon SEIU.

³ See WAC 391-08-120.

2. None of the individuals who filed objections provided proof of service upon all of the other parties to case.

We do not waive those defects, but we decline to implement the "show cause" process that would be needed to pursue any procedural defects here, because we find it more expeditious to deny the objections on other evident defects.

Lack of Standing to Object -

The timely objections now before the Commission were all filed by individuals, whose legal standing to object is limited to "prevented ... from casting a ballot" issues.

Eligible Voters Who Cast Timely Ballots -

Several objectors cast unchallenged ballots that are already included in the tally of ballots. Those individuals are:⁴

1. Sheryl Alfson-Kerkof
2. Beverly Corpus
3. Keila J. Getz
4. Mary P. Manion
5. Mike Marsolini
6. Wendy R. Rowe

The objections filed by those individuals must be denied for lack of legal standing. That reduces the number of timely objections remaining under consideration to five.

Eligible Voters Who Did Not Cast a Timely Ballot -

The remaining five objections are from individuals who were on the eligibility list for the election, and were sent ballots on March,

⁴ Eight of the 10 individuals who filed untimely objections also cast ballots that are already included in the tally of ballots. The remaining two untimely objections voted by challenged ballot.

26 2004, at the addresses originally provided by the employer. None of them cast ballots before the deadline of April 13, 2004. In the context that notices of the election were posted on the employer's premises, and the eligible voters have a right to abstain from voting, those are:

1. Duanish Chaudry claims not to have received a ballot, but there is no personal request for a duplicate ballot.
2. Michael Gomez claims not to have received a ballot, but there is no personal request for a duplicate.
3. Belai Mengesha claims not to have received a ballot, but there is no personal request for a duplicate.
4. Bianca Nguyen claims not to have received a ballot, but there is no personal request for a duplicate.
5. Paul J. Zini voted but his ballot came in on April 15, 2004, one day after the ballot tally. He claims that he received his ballot late.

Accepting their allegations as true for the purposes of this analysis, these five objections still do not warrant overturning the election result or even holding a hearing before issuance of a certification. If all these individuals had voted against the union, it would have only reduced the union's margin of victory. *State - Social and Health Services, Decision 8459-A (PSRA, 2004).*

NOW, THEREFORE, it is

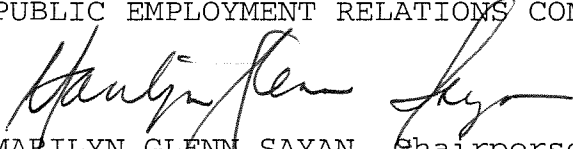
ORDERED

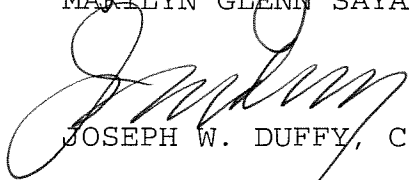
1. The election objections filed by the above-named individuals are DENIED.

2. The matter is remanded to the Executive Director for issuance of the appropriate certification.

Issued at Olympia, Washington, the 9th day of June, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


MARILYN GLENN SAYAN, Chairperson


JOSEPH W. DUFFY, Commissioner


PAMELA G. BRADBURN, Commissioner

PUBLIC EMPLOYMENT RELATIONS COMMISSION

603 EVERGREEN PLAZA BUILDING
P. O. BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
JOSEPH W. DUFFY, COMMISSIONER
PAMELA G. BRADBURN, COMMISSIONER
MARVIN L. SCHURKE, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 06/09/2004

The attached document identified as: DECISION 8392-A - PSRA has been served by the Public Employment Relations Commission by deposit in the United States mail, on the date issued indicated above, postage prepaid, addressed to the parties and their representatives listed in the docket records of the Commission as indicated below:

PUBLIC EMPLOYMENT RELATIONS COMMISSION

BY:/S/ LORALEE PERKINS

CASE NUMBER: 16976-E-02-02794 FILED: 12/02/2002 FILED BY: PARTY 2
DISPUTE: QCR UNORGANIZED
BAR UNIT: TECHNICAL
DETAILS: -
COMMENTS:

EMPLOYER: UNIVERSITY OF WASHINGTON
ATTN: LOU PISANO
1320 NE CAMPUS PKWAY STE 302
PO BOX 354555
SEATTLE, WA 98195-4555
Ph1: 206-543-8248 Ph2: 206-543-6236

PARTY 2: SEIU LOCAL 925
ATTN: KIM COOK
2900 EASTLAKE AVE E STE 230
SEATTLE, WA 98102
Ph1: 206-322-3027 Ph2: 206-322-3010

REP BY: SARA REGAN
SEIU LOCAL 925
2900 EASTLAKE AVE E STE 230
SEATTLE, WA 98102
Ph1: 206-322-3010

REP BY: MARTHA BARRON
THEILER DOUGLAS DRACHLER MCKEE
1030 SECURITIES BLDG
1904 3RD AVE
SEATTLE, WA 98101-1170
Ph1: 206-623-0900