

STATE OF WASHINGTON  
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

FRANKLIN COUNTY CORRECTIONS  
GUILD/WASHINGTON FRATERNAL  
ORDER OF POLICE

Involving certain employees of:

FRANKLIN COUNTY

CASE 138123-E-24

DECISION 13919 - PECB

DECISION OF COMMISSION

*Daniel E. Thenell and Paige Chrz*, Attorneys at Law, Thenell Law Group P.C., for  
Franklin County Corrections Guild/Washington Fraternal Order of Police.

*Annie Holden and David W. Ballew*, Attorneys at Law, Reid Ballew Leahy &  
Holland, LLP, for Teamsters Local 839.

*Anthony F. Menke*, Attorney at Law, Menke Jackson Beyer, LLP, for Franklin  
County.

SUMMARY OF DECISION

This case comes before the Commission on election objections filed by two employees and Teamsters Local 839. There are two issues before the Commission. Do the election objections raise issues of material fact that cannot be resolved without a hearing? If a hearing is necessary, what are the issues for hearing? Based on the objections filed by two employees and Teamsters and the responses filed by Teamsters, the Guild, and Franklin County, we conclude the objections cannot be resolved without a hearing. We remand the case to the Executive Director for further processing.

BACKGROUND

On October 19, 1995, the Commission certified the Franklin County Corrections Officers Association as the exclusive bargaining representative of:

All non-supervisory corrections personnel employed by Franklin County, excluding elected officials, officials appointed for a fixed term of office, confidential employees, supervisors, and all other employees of the employer.

*Franklin County*, Decision 5193-A (PECB, 1995). On April 7, 2020, the Executive Director issued an order granting Teamsters Local 839's unit clarification petition seeking to affiliate the employees represented by the Franklin County Corrections Officers Association with Teamsters. *Franklin County*, Decision 13181 (PECB, 2020).

On January 2, 2024, the Franklin County Corrections Guild/Washington Fraternal Order of Police (Guild) filed a petition to represent Deputies and Sergeants working in the Franklin County Corrections Department. The Representation Case Administrator (Administrator) began processing the case.

RCW 41.56.070 applied to the election in this case because there were three choices on the ballot. To be certified as the exclusive bargaining representative without a runoff election, either Teamsters or the Guild would have needed to receive "a majority vote of the public employees within the bargaining unit[.]" RCW 41.56.070. There were 46 employees eligible to vote in the election. Accordingly, one of the unions on the ballot was required to receive 24 or more valid votes for the agency to certify that union as the exclusive representative.

The election was inconclusive. On February 29, 2024, the Administrator tallied 32 valid ballots: 16 ballots for Teamsters and 16 ballots for the Guild. A runoff election was required by RCW 41.56.070; WAC 391-25-530.

On May 6, 2024, the Administrator sent the parties the schedule for the run-off election. The ballots would be mailed on Tuesday, May 14, 2024. The ballots were due by 5:00 p.m. on Tuesday, June 4, 2024. The tally of election was to be held on June 5, 2024. On May 8, 2024, the Administrator issued the Notice of Election and an Amended Investigation Statement.

In a runoff election, the majority of employees voting in the election determine the outcome of the election. WAC 391-25-530. "If there are only two choices on the ballot, a tie vote results in a certification of no representative." WAC 391-25-530(1)(a). There were 46 employees eligible to vote in the runoff election. On June 5, 2024, Representation Case Administrator Dario de la Rosa tallied 46 valid ballots: 19 ballots for Teamsters and 21 ballots for the Guild. The election was conclusive in favor of the Guild.

On June 11, 2024, eligible-employee Marcus Truitt filed an election objection stating that he did not receive a ballot before June 5, 2024. Truitt stated a ballot never arrived at his home address. As a result, he did not have an opportunity to vote in the election. The address listed on Truitt's objection contains an apartment number, which was not included in Truitt's address on the list of employees.

On June 11, 2024, eligible-employee Saul Arrieta filed an election objection stating he did not receive a ballot before June 5, 2024. According to the objection, Arrieta's ballot arrived at his home on June 6, 2024, as a result, he did not have an opportunity to vote in the election. The address listed on Arrieta's objection is the same address listed on the final list of employees.

On June 11, 2024, Teamsters filed election objections. Teamsters first alleges that two eligible voters, Arietta and Truitt, did not receive their ballots before the June 5, 2024, election and were thereby prevented from participating in the election. Next, Teamsters objects to the County's conduct during election. Teamsters asserts that on April 11, 2024, employees were compelled to attend a meeting. During the meeting Guild attorney Daniel Thenell and Commander Mark Conner addressed employees. Teamsters argues that the meeting violates WAC 391-25-140(3) and WAC 391-25-480(5)(e), violated the laboratory conditions, and is grounds for setting aside the election.

Teamsters, the Guild, and Franklin County filed responses to the objections by June 27, 2024.<sup>1</sup> The matter was transferred to the Commission for a decision.

### BLOCKING CHARGE

On June 26, 2024, Teamsters filed an unfair labor practice complaint against Franklin County (case 139156-U-24). The allegations of the unfair labor practice concern the April 11, 2024, meeting that Teamsters asserted as election misconduct. On July 3, 2024, the Executive Director issued a cause of action for the following issues:

1. Employer interference with employee rights in violation of RCW 41.80.110(1)(a) within six months of the date the complaint was filed, by showing a preference to the Guild, providing unlawful assistance to the Guild, and assisting the Guild in a way it did not assist the Teamsters during the pendency of a representation petition.
2. Employer domination or assistance of a union in violation of RCW 41.56.140(2) [and if so, derivative interference in violation of RCW 41.56.140(1)] within six months of the date the complaint was filed, by showing a preference to the Guild, providing unlawful assistance to the Guild, and assisting the Guild in a way it did not assist the Teamsters during the pendency of representation petition.

Teamsters requested the unfair labor practice complaint block processing of the representation petition. On July 3, 2024, the Executive Director issued a blocking charge under WAC 391-25-370.

### ANALYSIS

A cornerstone of the state's collective bargaining laws is the right of employees to select their representative for purposes of collective bargaining. RCW 41.56.010; *Chimacum School District*, 12623-A (PECB, 2017). Employees have the right to organize and designate a collective

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<sup>1</sup> On July 8, 2024, Teamsters filed a "Supplemental Brief." Teamsters did not request leave to file additional argument. The supplemental brief has not been considered in reaching this decision.

bargaining representative without interference. RCW 41.56.040. The Commission has adopted rules “to assure appropriate conditions for employees to cast their ballots[.]” WAC 391-25-480(5). WAC 391-25-480(5) prohibits conduct in violation of WAC 391-25-140. WAC 391-25-140(3) prohibits an employer from “express[ing] or otherwise indicat[ing] any preference between competing organizations if two or more employee organizations are seeking to represent its employees.

Objections may be filed with respect to specific conduct the party claims improperly affected the results of the election. WAC 391-25-590(1)(a). Objections filed “by individual employees are limited to conduct or procedures which prevented them from casting a ballot.” WAC 391-25-590(2). Teamsters, Arietta, and Truitt filed timely election objections. WAC 391-25-590. After considering the objections and timely filed responses, we conclude that the objections “raise material questions of fact which cannot be resolved without a hearing.” WAC 391-25-630(2).

The Commission may, and has, delegated authority to the Executive Director authority with respect to representation proceedings and unfair labor practice proceedings. RCW 41.58.015(2). Consistent with his authority, the Executive Director invoked WAC 391-25-370 and processing of the hearing on these election objections is blocked by the unfair labor practice complaint filed by Teamsters (case 139156-U-24). The allegations of the unfair labor practice complaint arise from the same set of facts – the April 11, 2024, meeting – as the election objections.

When a hearing on election objections is necessary, “the matter *may* be remanded to the executive director to conduct further proceedings under WAC 391-25-390.” WAC 391-25-630(2). Therefore, we remand the election objections to the Executive Director to conduct a hearing. The Commission may consolidate cases involving common issues or parties. WAC 10-08-085. While WAC 391-25-630(3) provides that “the record made at any hearing on the objections must be referred to the commission,” in the interest of administrative efficiency and efficient resolution of matters restricting employees’ ability to select a representative for collective bargaining, the

hearing on these election objections should be consolidated with the unfair labor practice case for expedited processing.

### CONCLUSION

The election objections filed by Saul Arrietta, Marcus Truitt, and Teamsters Local 839 cannot be resolved without a hearing. We remand the case to the Executive Director.

### ORDER

1. The issues for hearing are as follows:
  - a. Whether, under WAC 391-25-590(2), any conduct or procedures prevented Saul Arrieta from casting a ballot in the election.
  - b. Whether, under WAC 391-25-590(2), any conduct or procedures prevented Marcus Truitt from casting a ballot in the election.
  - c. Whether the meeting held on April 11, 2024, violated WAC 391-25-140(3).
  - d. Whether statements made by the employer during the meeting held on April 11, 2024, violated WAC 391-25-140(3).
2. The case is remanded to the Executive Director for consolidation with case 139156-U-24.
3. The Commission delegates authority to the Hearing Examiner assigned to case 139156-U-24 to enter findings of fact and conclusions of law on the issues framed in case 138123-E-24.

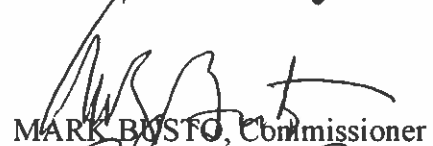
4. Any decision by an Examiner on the election objections may be appealed pursuant to WAC 391-25-660.

ISSUED at Olympia, Washington, this 25th day of July, 2024.

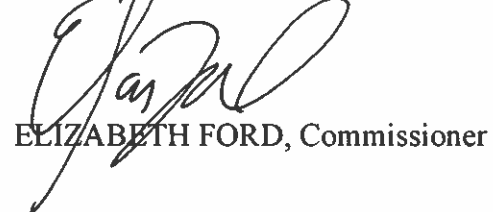
PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARK LYON, Chairperson



MARK BUSTRO, Commissioner



ELIZABETH FORD, Commissioner



# RECORD OF SERVICE

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ISSUED ON 07/25/2024

DECISION 13919 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 138123-E-24

EMPLOYER: FRANKLIN COUNTY

REP BY: JIM D. RAYMOND  
FRANKLIN COUNTY  
1016 N 4TH AVE D-201  
PASCO, WA 99301  
jraymond@franklincountywa.gov

ANTHONY F. MENKE  
MENKE JACKSON BEYER, LLP  
807 N 39TH AVE  
YAKIMA, WA 98902-6389  
tmenke@mjbe.com

PARTY 2: FRANKLIN COUNTY CORRECTIONS GUILD/WASHINGTON FRATERNAL ORDER OF POLICE

REP BY: JIM DAVID  
FRATERNAL ORDER OF POLICE  
PO BOX 126  
VANCOUVER, WA 98666  
jim.david@wafop.com

DANIEL E. THENELL  
THENELL LAW GROUP, P.C.  
6 CENTERPOINTE DR STE 450  
LAKE OSWEGO, OR 97035  
dan@thenelllawgroup.com

PAIGE CHRZ  
THENELL LAW GROUP, P.C.  
6 CENTERPOINTE DR STE 450  
LAKE OSWEGO, OR 97035  
paige@thenelllawgroup.com



PARTY 3: TEAMSTERS LOCAL 839

REP BY: JESUS ALVAREZ JR.  
TEAMSTERS LOCAL 839  
1103 W SYLVESTER ST  
PASCO, WA 99301  
team839\_jalvarez@outlook.com

ANNIE HOLDEN  
REID, BALLEW, LEAHY & HOLLAND, L.L.P.  
100 W HARRISON ST NORTH TOWER STE 300  
SEATTLE, WA 98119-4116  
annie@rmbllaw.com

DAVID W. BALLEW  
REID, BALLEW, LEAHY & HOLLAND, L.L.P.  
100 W HARRISON ST NORTH TOWER STE 300  
SEATTLE, WA 98119-4143  
david@rmbllaw.com