

STATE OF KANSAS  
BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD

IN THE MATTER OF THE COMPLAINT  
AGAINST THE EMPLOYER FILED BY

IAM HEALTHCARE, Department of the  
International Association of Machinists and  
Aerospace Workers,  
Complainant,

v.

Case Nos. 75-CAE-6-2026 (75-UC-3-2026)  
75-CAE-7-2026 (75-UC-4-2026)

UNIVERSITY OF KANSAS  
HOSPITAL AUTHORITY,  
Respondent.

ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD

Before the Kansas Public Employee Relations Board (PERB or Board) are the two above-captioned prohibited practice complaints filed by IAM Healthcare (hereinafter Complainant or Union). The Union's complaints arise out of two related mail-ballot elections conducted by PERB on or about May 14, 2026.

Due to (1) the exigent nature of representation elections; (2) PERB's mandate, as imposed by K.A.R. 84-2-12(j), to "immediately" issue a remedial order to address the complaints; and (3) the material facts not being in dispute, PERB hereby invokes its authority to proceed based on summary proceedings and without a hearing, pursuant to K.S.A 77-537, but subject to the right of either party to subsequently request a hearing on this Order under K.S.A. 77-542. Upon review of the Union's complaints, and in light of the evidence reviewed, PERB hereby makes the following findings of fact and conclusions of Law.

## FINDINGS OF FACT

1. On or about February 25, 2026, Complainant filed a Petition for Unit Certification in Case No. 75-UC-3-2026 to represent a unit of Pharmacy Technicians and Pharmacy Technician Specialists employed by Respondent at its business location at 4000 Cambridge St., Kansas City, Kansas.
2. On or about February 25, 2026, Complainant filed a Petition for Unit Certification in Case No. 75-UC-4-2026 to represent a unit of Pharmacy Technicians and Pharmacy Technician specialists employed by Respondent (also, Employer) at its Southlake Business Park location, 11300 Corporate Avenue, Lenexa, Kansas.
3. On or about March 19, 2026, KDOL notified the parties that the Union had satisfied the 30% showing-of-interest requirement in each bargaining unit, and that KDOL would proceed with two concurrent mail-in ballot elections. Thus, March 19, 2026 was established as the date the showing-of-interest was validated by KDOL.
4. On or about April 6, 2026, the Kansas Department of Labor mailed out 105 ballots to employees working at the Rainbow Boulevard location and forty-three (43) ballots to the South Lake location. Ballot were sent to bargaining unit members' respective residential addresses, which were provided by the Employer. Included with each ballot was a pre-paid return envelope addressed to KDOL.
5. Ballots were due to KDOL's offices on May 13, 2026, as KDOL intended to count them on May 14, 2026 at 9:30 a.m.
6. During the month of April 2026, KDOL received several completed ballots in the return envelopes. An additional twenty-five (25) ballots arrived on May 6, 2026.

7. Between the two proposed bargaining units, KDOL received a total of sixty (60) ballots prior to May 14, 2026.
8. On May 14, 2026, KDOL staff opened and counted the ballots in front of election observers from both the Union and the Employer.
9. Two (2) ballots were challenged by the Employer because the individuals were allegedly no longer employed with the University of Kansas Health System. Those ballots were not counted by KDOL, in accordance with K.A.R. 84-2-12(g).
10. Those voting in favor of union representation lost by one (1) vote at each location.
11. On or about May 19, 2026, the Union filed prohibited practice complaints (Case Nos. 75-CAE-6-2026 and 75-CAE-7-2026), in accordance with K.A.R. 84-2-12(j), detailing its objections to the conduct of the two elections. The Union's complaints allege that, among other things, the elections were tainted by the Employer's pre-election coercion and intimidation tactics, and that ballots submitted by ostensible Unions supporters were not received by KDOL.
12. Since May 19, 2026, the United States Postal Service (USPS) has delivered thirty-seven (37) more ballots to KDOL.
13. Six (6) of the thirty-seven (37) uncounted ballots had originally been postmarked April 8, 2026, in Kansas City, Missouri and were postmarked again on May 19, 2026, in Kansas City, Missouri. The other thirty-one (31) ballots were postmarked between April 11, 2026, and April 23, 2026.

## ANALYSIS AND CONCLUSIONS OF LAW

We start by addressing the Union's allegations that the untimely delivery of the thirty-seven (37) uncounted ballots unfairly affected the outcome of the elections. For reasons explained below, we agree with the Union that a material irregularity occurred in each of these two cases, and that these irregularities must be redressed.

The postmarks on the thirty-seven (37) unopened ballot return envelopes demonstrate that the disputed ballots were mailed well in advance of the two elections. Several of these ballots form the basis of the Union's objection that numerous voters were wrongfully and inexplicably disenfranchised from the election process.

When considering a party's objections to conduct arguably affecting an election, PERB must consider whether irregularities may have changed the results of the election. *See Kansas Ass'n of Pub. Emp. v. Pub. Serv. Emp. Union, Loc. 1132*, 218 Kan. 509, 514, 544 P.2d 1389, 1393-94 (1976). Likewise, in the same context, we have consistently held that the "overriding consideration must be the fairness of elections." *See, e.g., AFSCME, AFL-CIO v. City of Manhattan, Kan.*, Case No. 75-CAE-11-1980 (1980); *see also*, K.S.A. 75-4327(d) ("[E]ach employee eligible to vote shall be provided the opportunity to choose the employee organization such employee wishes to represent such employee, from among those on the ballot, or to choose 'no representation.'") Under K.A.R. 84-2-12(j), the conduct of a third party, such as the USPS, in the election process may legitimately form the basis of a party's request to challenge election results.

We conclude that the USPS's failure to timely deliver the disputed ballots caused an irregularity that had—and continues to have--the potential to change the election results. As a

direct result of the irregularity caused by the USPS, a significant proportion of eligible employees were improperly disenfranchised. In other words, the elections were materially deficient.

In order for the Board to satisfy its mandate of promoting and protecting the democratic process in the workplace, and to uphold the rights of all employees to freely choose a bargaining representative of their choice (or no representative at all), PERB holds that these elections cannot yet be certified.

PERB must next determine the appropriate remedy. The governing regulation grants PERB broad authority to craft such an “order as required to effectuate the purposes of [PEERA].” K.A.R. 84-2-12(j).

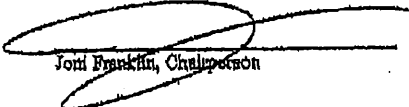
Though PERB has authority to set aside the results of the original election and order a rerun election, conducting a rerun election could skew the results. Under the controlling regulations, in order to be eligible to vote, employees must (a) be on the employer’s payroll at the time the showing-of-interest was validated, and (b) still work for the employer at the time of an election. *K.A.R. 84-2-11(c)*. Those two dates have already been established here, as (a) March 19, 2026 and (b) May 14, 2026. Thus, the pool of eligible voters in each of the two elections at issue has already been set. Were the elections to be re-run, the pool of eligible voters would almost certainly need to be adjusted (e.g., some employees initially eligible to vote may have left the Employer’s employ since the May 14, 2026 election date), to the potential prejudice of the Union, whose prohibited practice complaints are the subject of this Order. Under the circumstances, it would not be prudent for us to direct a rerun election.

Pursuant to the authority vested in the Board by the Public Employer-Employee Relations Act, and in the interests of promoting a holistic remedy, it is hereby ordered that ballots the USPS delivered after the election be opened and counted, provided the voters meet eligibility

requirements set forth in K.A.R. 84-2-11. We can think of no alternate remedy that would better effectuate the purposes of PERRA's election provisions.

The Employment Standards Division of KDOL is hereby directed to schedule a date and time to open and count the remaining thirty-seven (37) ballots, and to provide the parties advance notice of such date and time, so as to afford the parties' election observers the opportunity to witness the ballot-counting process. The votes of all eligible, previously unopened ballots shall be combined with the votes tallied on May 14, 2026, and the final results shall be promptly certified.

IT IS SO ORDERED BY THE PUBLIC EMPLOYEE RELATIONS BOARD

  
Joni Franklin, Chairperson

  
Jennifer McCasland, Board Member

  
Rick Wiley, Board Member

  
Keely J. Schneider, Board Member

  
Bradley Sollars, Board Member

**NOTICE**

The foregoing Order is an order on summary proceedings of PERB, pursuant to K.S.A. 77-537. This Order shall become final and effective unless either party files a written request for hearing with KDOL within 15 days of service hereof, pursuant to K.S.A. 77-542. Requests may be sent in care of Mr. Tim Triggs, Labor Conciliator, to 401 SW Topoka Bl., Topeka, KS 66609.

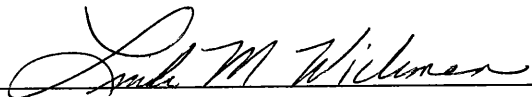
CERTIFICATE OF SERVICE

On June 25<sup>th</sup>, 2026, I certify that a copy of the foregoing was placed in the United States first class mail, postage prepaid, addressed to:

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