

Barbara C. Deinhardt
Neutral Monitor
917-763-0906
neutralmonitor@gmail.com

October 21, 2024

DECISION

Protest I-16-2024 (appeal of
Eligibility Report)

By email dated October 15, 2024 Tuan Phoenix filed an appeal of the Election Committee October 15 Eligibility Report. The Appellant asserts that he had sufficient valid signatures to be qualified.

The process followed by the Election Committee is set out in the Eligibility Report. The Election Rules gives all candidates the right to review the petitions in the two days following the submission of the petitions. (The Appellant waived his right when he did not take advantage of that opportunity.) The data from the petitions is input. It is then checked for duplicate signatures. Attempts are made to identify all names/pass numbers. Then all the legible/identifiable signators are compared with the Union dues data base to ensure that they are in good standing. Finally, there is a check to make sure that signatures come from active members in the proper Department/Division.

The Appellant argues that he is entitled to view the petitions himself. The Election Committee has declined his request. I do not find a basis for overturning the Election Committee decision in this regard. My role as Neutral Monitor is to review the evidence on which the Election Committee has relied, conduct my own investigation, and make an independent neutral determination. I have done this. I personally reviewed the petitions on which signatures were invalidated for the Appellant. There is no obligation in the Election Rules or in past practice that gives a candidate the right to review the petitions after the initial opportunity in the two days following the submission of the petitions. After my review, I have determined that Tuan Phoenix is not eligible. My findings are as follows:

Mr. Phoenix submitted 556 signatures. After my review, I found that 82 were invalid:

Duplicates	5	
No match/illegible	5	
Not valid	72	
Supervisor/not L100	1	
Terminated	1	
Wrong division: terminal car cleaner/CED	25	
Wrong division: other	2	
Bad standing	43	

I note that while the number of members in bad standing among Mr. Phoenix's signatures is high, it is in fact lower (8%) than the overall 10% bad standing rate in the Stations Department. All but one of those in bad standing are members who were employed during the time that dues checkoff was not in effect. Mr. Phoenix therefore only submitted 474 valid signatures. He needed 538 valid signatures to be eligible. He is 64 signatures short.

Appeal denied.

In accordance with the International Constitution and the Election Rules, any interested party unsatisfied with this determination may appeal to the Transport Workers Union of America Committee on Appeals. Any appeal shall be in writing and shall be filed in accordance with the procedure set forth in Article IV(B)(9) of the Election Rules and Article XXII of the International Constitution for the appeal to the International from decisions of Local Unions.



Barbara C. Deinhardt
Neutral Monitor

By email:

Tuan Phoenix
Arthur Schwartz
Denis Engel
Elections Committee