

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

WASHINGTON FEDERATION OF
STATE EMPLOYEES

Involving certain employees of:

STATE – SOCIAL AND HEALTH
SERVICES

CASE 128860-E-17

DECISION 12689 - PSRA

DIRECTION OF CROSS-CHECK

Herb Harris, PERC Specialist, for the Washington Federation of State Employees.

Laura L. Wulf, Assistant Attorney General, Attorney General Robert W. Ferguson,
for the Washington State Department of Social and Health Services.

On March 22, 2017, the Washington Federation of State Employees (union) filed a petition seeking to include the employees in the Psychiatric Social Worker 4 job class at the Washington State Department of Social and Health Services (employer) in its existing supervisory Institutions bargaining unit. Representation Case Administrator Dario de la Rosa conducted an investigation. The parties stipulated to the appropriateness of the petitioned-for bargaining unit but disagreed about the method to determine the question concerning representation. The employer objected to the use of the cross-check process and expressed a preference for a mail ballot election. A cross-check is appropriate.

ANALYSIS

Applicable Legal Standards

This agency may determine questions concerning representation by either “(a) [e]xamination of organization membership rolls; (b) comparison of signatures on organization bargaining authorization cards; or (c) conducting an election specifically therefor.” RCW 41.56.060. A “comparison of signatures on organization bargaining authorization cards” is called a cross-check and involves comparing an employee’s signature on his or her authorization card against the

employee's signature on an existing employment record. If the signatures match, then the employee is deemed to have voted in favor of representation.

In order for the cross-check method to be used, the labor organization must (1) be the only organization petitioning to represent the at-issue employees and (2) submit a showing of interest demonstrating that at least 50 percent of the employees signed valid showing of interest cards in support of the labor organization. In *City of Redmond*, Decision 1367-A (PECB, 1982), and numerous subsequent decisions, the Commission and the Executive Director have refused to ignore the cross-check option or to write it out of the statute. Accordingly, the fact that an employer expresses a preference for the question concerning representation to be resolved by an election is not sufficient to disregard the statute and rule.

Application of Standards

The wording on the showing of interest cards in this case clearly indicates that, by signing the card, the employee wishes to be represented by the union for the purposes of collective bargaining. Employees can be expected to read and give importance to the showing of interest cards they sign for a union. Employees can also be expected to read and give importance to any notice from this agency that is posted in the employer's workplace. The proposed bargaining unit description will be included on the investigation statement issued under WAC 391-25-220.

The union submitted a showing of interest in excess of the 50 percent required by WAC 391-25-396. Accordingly, this matter may be resolved through the cross-check procedures. If an employee desires to withdraw his or her authorization card in advance of a cross-check, the procedure for doing so is detailed in WAC 391-25-410(2). The instructions for an employee to withdraw his or her showing of interest card will be explained in the investigation statement.

ORDER

1. The employer shall immediately supply the Commission with copies of documents from its employment records which bear the signatures of the employees on the eligibility list stipulated by the parties.

2. A cross-check of records shall be made by the staff of the Public Employment Relations Commission for the appropriate bargaining unit described as

All supervisory civil service employees of the State of Washington performing services for residents of 24-hour care and/or custody institutions operated by the Department of Social and Health Services, or providing alternative support and case services on a regional basis for the developmentally disabled who may not require institutionalizing, or those who have made the transition from a developmentally disabled institution setting back to the community, excluding confidential employees, internal auditors, Washington Management Service employees, non-supervisory employees, employees in other bargaining units, and employees historically excluded from the unit by such orders of the Washington Personnel Resources Board or its predecessors as have not been modified by orders of the Commission.

to determine whether a majority of the employees in the Psychiatric Social Worker 4 job class have authorized the Washington Federation of State Employees to represent them for purposes of collective bargaining.

ISSUED at Olympia, Washington, this 5th day of May, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", with a long horizontal flourish extending to the right.

MICHAEL P. SELLARS, Executive Director

This order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
MARK E. BRENNAN, COMMISSIONER
MARK R. BUSTO, COMMISSIONER
MIKE SELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 05/05/2017

DECISION 12689 - PSRA has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

A handwritten signature in blue ink, appearing to read "Vanessa Smith".

BY: VANESSA SMITH

CASE NUMBER: 128860-E-17

EMPLOYER: STATE - SOCIAL AND HEALTH SERVICES
ATTN: FRANKLIN PLAISTOWE
OFFICE OF FINANCIAL MANAGEMENT
2ND FL RAAD BLDG
128 10TH AVE SW
PO BOX 47500
OLYMPIA, WA 98504
labor.relations@ofm.wa.gov
(360) 407-4140

REP BY: LAURA L. WULF
OFFICE OF THE ATTORNEY GENERAL
7141 CLEANWATER DR SW
PO BOX 40145
OLYMPIA, WA 98504-0145
lauraw@atg.wa.gov
(360) 664-4167

PARTY 2:
ATTN: WASHINGTON FEDERATION OF STATE EMPLOYEES
HERB HARRIS
1212 JEFFERSON ST SE STE 300
OLYMPIA, WA 98501-2332
herbh@wfse.org
(360) 352-7603