

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
PUBLIC SCHOOL EMPLOYEES)	
OF WASHINGTON)	CASE 16387-E-02-2712
)	
Involving certain employees of:)	DECISION 8128 - PECB
)	
MOSSYROCK SCHOOL DISTRICT)	DIRECTION OF CROSS-CHECK
)	
)	

Eric T. Nordlof, Attorney at Law, appeared on behalf of the union.

Karr Tuttle Campbell, by *Lawrence B Ransom*, Attorney at Law, appeared on behalf of the employer.

On May 2, 2002, the Public School Employees of Washington (PSE), filed a petition for investigation of a question concerning representation with the Public Employment Relations Commission under Chapter 391-25 WAC, seeking certification as exclusive bargaining representative of paraeducators of Mossyrock School District.

On June 24, 2003, PSE filed an amended representation petition along with supplemental showing of interest, seeking certification as exclusive bargaining representative of all classified employees of Mossyrock School District. An investigation conference was conducted by telephone conference call on June 25, 2003. The parties disagreed about the method to determine the question concerning representation. The union stated a preference for a cross-check, while the employer objected to the use of the cross-check procedure. The dispute concerning methodology was referred to the Executive Director.

RCW 41.56.060 sets forth the methods for determining questions concerning representation:

The Commission shall determine the bargaining representative by (1) examination of organization membership rolls, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

The Commission's rules limit the availability of the "cross-check" procedure, as follows:

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. (1) Where *only one organization is seeking certification* as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that the *organization has been authorized by in excess of seventy percent of the employees* to act as their representative for the purposes of collective bargaining, the executive director may issue a direction of cross-check.

(2) A direction of cross-check and other rulings in the proceedings up to the issuance of tally are interim orders, and may only be appealed to the commission by objections under WAC 391-25-590 after the cross-check. An exception is made for rulings on whether the employer or employees are subject to the jurisdiction of the commission, which may be appealed under WAC 391-25-660.

(emphasis added).

The general preference for elections occasionally expressed by employers is not sufficient to disregard the statute and rule.

Examination of the case file indicates that the union submitted a showing of interest in excess of 70% as required by WAC 391-25-391. The showing of interest is confidential under WAC 391-25-110, and cannot be the subject of a hearing. If employees desire to withdraw their authorization cards, the procedure for doing so is detailed in WAC 391-25-410(2).

NOW, THEREFORE, it is

ORDERED

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

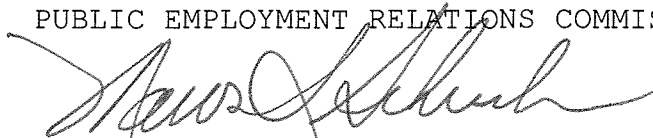
All full-time and regular part-time classified employees of Mossyrock School District, excluding supervisors, confidential employees and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized the Public School Employees of Washington, to represent them for purposes of collective bargaining.

2. 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.

Issued at Olympia, Washington, on the 26th day of June, 2003.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

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