

SEATTLE SCHOOL DISTRICT, Decision 5780 (PECB, 1996)

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:)	
)	
INTERNATIONAL UNION OF OPERATING)	CASE 12728-E-96-2129
ENGINEERS, LOCAL 609)	
)	DECISION 5780 - PECB
Involving certain employees of:)	
)	
SEATTLE SCHOOL DISTRICT)	DIRECTION OF CROSS-CHECK
)	
)	

Dale Daugharty, Business Manager, and Mark DeMonbrun, Treasurer, appeared on behalf of the union.

Brenda J. Little, Assistant General Counsel, and Nancy Carlson, City Attorney, appeared on behalf of the employer.

On September 27, 1996, International Union of Operating Engineers, Local 609, 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 certain employees of the Seattle School District.

An investigation conference was conducted, by telephone conference call, on November 6, 1996. The employer raised an issue that the district is organized by a horizontal structure and questioned whether IUOE, Local 609 is an appropriate bargaining representative for the SPICE coordinators because they do not currently represent any paraprofessional units. The parties also disagreed about the method to determine the question concerning representation. The union stated a preference for a cross-check, while the employer objected to use of the cross-check procedure. The dispute concerning methodology was referred to the Executive Director.

On November 21, 1996, a letter was sent to the parties to show cause why the Commission's previous ruling on the SPICE Coordinators, in Seattle School District, Decision 4868 (PECB, 1994), should not be regarded as binding. On December 6, 1996 the Commission received a letter from the employer which stated:

Please be advised that the Seattle School District is withdrawing any objections to the International Union of Operating Engineers, Local 609's petition to become the bargaining representative for the SPICE Coordinators.

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 memberships roles, (2) comparison of signatures on organization bargaining authorization cards, or (3) by conducting an election specifically therefor.

[1975 1st ex.s. c 296 §17; 1967 ex.s. c 108 §6.]

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

WAC 391-25-391 SPECIAL PROVISION--PUBLIC EMPLOYEES. 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. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

[Statutory Authority: RCW ... 41.56.090, 41.59.110, ... 96-07-105, §391-25-391, filed 3/20/96, effective 4/20/96.]

Employers occasionally oppose the use of the cross-check procedure on the basis of a general preference for elections, notwithstanding

that cross-checks have been specifically authorized by the statute since its inception in 1967. In City of Redmond, Decision 1367-A (PECB, 1982), the Commission endorsed the "70% test" for a cross-check. Employer objections on various grounds were rejected in a trilogy of cases decided in 1990: Port of Pasco, Decision 3398-A (PECB, 1990); City of Centralia, Decision 3495-A (PECB, 1990); City of Winslow, Decision 3520-A (PECB, 1990). Clearly, this employer's general preference for an election is not a basis to deny use of the cross-check procedure. See, also, Pike Place Market, Decision 3989 (PECB, 1992). The Commission amended WAC 391-25-391 in 1996, to codify those precedents.

Examination of the petition and investigation statement in this case indicates that the union has submitted the kind of substantial showing of interest required by WAC 391-25-391. The union's showing of interest in excess of 70% inherently indicates little likelihood of an election altering the result.

DIRECTION OF CROSS-CHECK

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

All full-time and regular part-time SPICE Coordinators of the Seattle School District, excluding confidential employees, supervisors, and all other employees.

to determine whether a majority of the employees in that bargaining unit have authorized IUOE, Local 609, 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 17th day of December, 1996.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in cursive script, appearing to read "Marvin L. Schurke".

MARVIN L. SCHURKE, Executive Director

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