

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:

TACOMA COMMUNITY COLLEGE
(COMMUNITY COLLEGE DISTRICT 22)

CASE 27068-E-15

DECISION 12543-A - PECB

DIRECTION OF CROSS-CHECK

Edward Earl Younglove III, Attorney at Law, Younglove & Coker, P.L.L.C., for
the Washington Federation of State Employees.

Richard D. Brady, Assistant Attorney General, Attorney General Robert W.
Ferguson, for Tacoma Community College.

On March 4, 2015, the Washington Federation of State Employees (union) filed a petition seeking certification as the exclusive bargaining representative of certain employees of Tacoma Community College (employer). The parties disagreed about the appropriateness of the petitioned-for bargaining unit, and a hearing was held to take evidence and testimony about the duties, skills, and working conditions of the petitioned-for employees. On February 8, 2016, a direction of election was issued for an appropriate bargaining unit. *Tacoma Community College*, Decision 12543 (PECB, 2016). The parties disagreed about the method to determine the question concerning representation.

Following the issuance of the direction of election, Representation Case Administrator Dario de la Rosa asked the employer to provide an updated list of employees. The employer was also asked if it consented to the use of the cross-check procedures found in WAC 391-25-391 and WAC 391-25-410 to resolve the question concerning representation. The employer expressed a preference for a mail ballot election in this instance.

The issue to be determined is whether use of the cross-check method is appropriate in this case. The union stated a preference for a cross-check, while the employer objected to the use of the cross-check procedure. A cross-check is appropriate.

DISCUSSION

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(1). 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 70 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.

ANALYSIS

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.

The record demonstrates that the union submitted a showing of interest in excess of the 70 percent required by WAC 391-25-391. If employees desire to withdraw their authorization cards in advance of a cross-check, the procedure for doing so is detailed in WAC 391-25-410(2).

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 in the appropriate bargaining unit described as:

All full-time and regular part-time non-supervisory employees exempt from Chapter 41.06 RCW who are employed by Tacoma Community College (Community College District 22) in the Advising Department, Running Start Program, Early Learning Department, Career and Job Department, Assessment and Access Services Departments, and Fresh Start Program, excluding faculty, confidential employees, supervisors, and all other employees.

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

Issued at Olympia, Washington, on the 13th day of April, 2016.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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

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RECORD OF SERVICE - ISSUED 04/13/2016

DECISION 12543-A - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

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