



State of Washington PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission
From: Nancy Krier, General Counsel
Date: February 21, 2013
Re: Employee Electronic Signatures and Electronic Authorizations on Payroll
Deduction Forms for Political Contributions – WAC 390-17-100 - Continued
Discussion at February 28, 2013 Commission Meeting

Agenda Item

In January, the Commission discussed a request from stakeholders asking whether the payroll deduction process for political contributions could permit electronic authorizations by employees. The discussion concerned a Commission rule, WAC 390-17-100, which sets out the payroll deduction form and requires a “signature.” At its February 28 meeting, the Commission is scheduled to continue the discussion after being provided additional stakeholder input. Staff is also describing options to proceed if the Commission wishes to amend its rule.

Background

To recap, RCW 42.17A.495(3) governs political contributions by employees on a payroll deduction authorization form. It provides that:

No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the **written request** of the employee. **The request must be made on a form prescribed by the commission** informing the employee of the prohibition against employer and labor organization discrimination described in subsection (2) of this section. The employee may revoke the request at any time. At least annually, the employee shall be notified about the right to revoke the request.
(Emphasis added).

The requests must be maintained by the employer and open for public inspection for three years.¹ Copies of such information shall be delivered to the Commission upon request. RCW 42.17A.495(4). WAC 390-17-100 provides the contribution withholding steps, the form, and a reference to the notice requirements.² The rule requires “the written

¹ Except as provided in WAC 390-17-105 for annual aggregate contributions of \$25 or less.

² WAC 390-17-110 also provides more information on the employee **notification** requirements. Under that

authorization of the individual subject to the payroll withholding or diversion of wages.” The rule provides that the forms are to conform to the suggested format in the rule, “or in a different format if it provides the following information ...” The information must include the “individual’s signature.” The sample form also includes a line for the employee’s written “signature.”

Request

The request has been presented by stakeholders James Oswald and Dmitri Iglitzin, attorneys who work with labor organizations. See enclosed November 30, 2012 letter.

In January, staff recommended that the Commission could interpret its rule to permit electronic or digital **signatures** so long as the employer or other person or entity responsible for the disbursement of wages or salaries satisfies: (1) procedures providing reliable authentication of the signature on the payroll deduction form and security of the process, and (2) the requirements in RCW 42.17A that (a) the employee receive required notifications about the payroll deduction process, and (b) the completed forms are maintained and open for public inspection for three years, and provided to the Commission upon request.

However, Mr. Iglitzin has clarified that they are seeking a broader interpretation that would allow electronic payroll deduction authorizations **without a “signature” requirement**. See his January 23, 2013 email. Since WAC 390-17-100 specifically mentions “signature,” a rule amendment appears necessary if the Commission decides to accommodate that request. Staff also suggested seeking additional stakeholder input before proceeding with the discussion.

Stakeholders

Therefore, after the January Commission meeting, staff:

- Filed a CR 101 notice with the Code Reviser explaining that the Commission is considering whether to update its payroll deduction rules to accommodate electronic signatures and electronic authorizations. The notice was published in the *Washington State Register*, invited public input, and invited attendance at the February 28 Commission meeting.
- Conducted additional outreach by posting a notice on the PDC website and Facebook page, and by sending emails to the agency’s stakeholder list.³
- Contacted the Department of Enterprise Services to seek input. DES manages the state employee payroll system for many state agencies.
- Contacted the Washington Association of School Business Officials Payroll Committee.
- Followed up with Mr. Iglitzin, to see if he had specific language he would like the Commission to consider in possibly amending its rule.

To date, staff has received comments from Mr. Iglitzin and Mr. Oswald. See their enclosed

rule, the notifications must be in a communication directed to the employee, which can include email, but cannot include notifications made through a passive posting on a website or bulletin board. See enclosure.

³ The stakeholder list includes 111 contacts for political committees, political parties, union representatives, representatives from various other organizations, public agencies, legislators, attorneys, and other persons.

February 19, 2013 letter. Mr. Iglitzin is also planning to attend the meeting. Staff is in the process of receiving comments from DES and will provide those at the meeting. It is also possible other stakeholders may submit comments prior to or at the Commission meeting. One organization, the Freedom Foundation, has informed staff that it is monitoring this issue but is not submitting comments at this time.

Draft Rule Amendments for Discussion

Based upon the comments and discussion to date, staff prepared two options for amending WAC 390-17-100, if the Commission wishes to accommodate some of or the entire request. See enclosures – Option # 1 and Option # 2. Both staff options also confirm the recordkeeping and public inspection requirements, including for the signature or electronic verification. In addition, Mr. Iglitzin and Mr. Oswald have proposed rule language somewhat similar to staff Option #2. See Option # 3.

In sum:

Option # 1: Retains the signature requirement, but permits electronic or digital signatures if the procedure provides a reliable and secure authentication of the signature, such as a verification of the signature.

Option # 2: Permits an electronic alternative to the signature requirement, if the process provides a reliable and secure verification that the individual is authorizing the withholding or diversion of payroll funds.

Option # 3: Requires “a record” of the “electronic or” written authorization by the employee. Permits an alternative to the “signature requirement” if there is a “secure, reliable and verifiable attestation” that the individual has authorized the “political contribution.”

If the Commission wants to proceed with rulemaking, it will need to approve proposed language to be filed with the Code Reviser, and a public hearing will be scheduled at a future meeting.

Enclosures: November 30, 2012 Letter
January 23, 2013 Email
February 19, 2013 Letter
WAC 390-17-100 with Draft Amendments - Option # 1, Option # 2, Option # 3
WAC 390-17-110 Employee Notification Requirements (FYI)

Schwerin Campbell Barnard Iglitzin & Lavitt LLP

ATTORNEYS AT LAW

Of Counsel Lawrence Schwerin
James D. Oswald

DMITRI IGLITZIN
iglitzin@workerlaw.com

JAMES D. OSWALD
oswald@workerlaw.com

Sent via email to lori.anderson@pdc.wa.gov

November 30, 2012

Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908

Re: Response to Request for Comments Regarding Campaign Activities
on the Internet and Campaign Fundraising by Text Message
Our File No. 2800-046

Dear Commissioners:

We write to you on behalf of the Service Employees International Union and the Washington State Labor Council (collectively, "labor organizations"). We will address both the questions posed in Lori Anderson's notice of the December 4 meeting and the need to adjust certain rules regarding labor organization fundraising in light of your proposed changes facilitating fundraising by text message.

Response to Stakeholder Questions

1.a Labor organizations typically use websites to communicate primarily to members. It is typically self-evident that the website is sponsored by the labor organization. Political committees sponsored by labor organizations typically do not maintain websites.

1.a.i Adding a "paid for by" would be superfluous in the case of labor organization websites, as the sponsor is evident and persons viewing the website are typically members of the labor organization.

1.a.ii The cost of political communications by or from a political committee is typically a very small percentage of the total cost of the labor organization's website. We do not have a figure for that very small portion, and do not believe the overall cost of the labor organization website is useful in the analysis.

2.a It does not seem unreasonable to adopt either the 200 or the 500 item threshold, as either of the proposed thresholds is well below the number of identical emails or text messages that would typically be generated by a political committee or candidate using electronic communication to reach potential voters or even potential donors.

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2.b It is our impression that Washington state campaigns commonly send "blast" electronic communications of the type you describe.

2.c It is our impression that at least campaigns for statewide office typically assign paid staff to maintain an ongoing series of "blast" electronic communications to supporters and potential supporters.

3.a No, we are not aware of campaigns fundraising by text messaging in Washington.

3.b We are not in a position to assess the general level of interest in developing a regulatory system to permit fundraising by text messaging. We envision that such a regulatory system would be of limited utility to labor organizations and political committees sponsored by labor organizations.

3.c We do not have specific questions about fundraising by text messaging.



Need for Clarification of Regulations Regarding
Contribution Withholding Authorizations

Labor organizations appreciate the need to adjust campaign finance statutes and regulations to adapt to changing technology. As the PDC is aware, fundraising via internet communications and websites is well-established. The proposals regarding fundraising by text messaging are a logical next step to that evolution.

In that spirit, labor organizations believe it is appropriate that the PDC clarify the regulations regarding contribution withholding authorizations. Contribution withholding authorizations are, by far, the primary means by which members contribute to union-sponsored political committees. RCW 42.17A.495 requires that a member authorization be "upon the written request of the employee" and "on a form prescribed by the commission." WAC 390-17-100 provides such a form, and requires that the form include the "signature" of the employee. As of this date, the Commission has not clarified that the "signature" required by the WAC may be in electronic form.

To permit employees to authorize political contribution withholding by electronic signature is consistent with the purposes of RCW 19.34.010, which include "facilitating commerce by means of reliable electronic messages." The statute defines "electronic signature" as a signature "in electronic form attached to or logically associated with an electronic record."

Labor organizations believe that the purpose of both RCW 42.17A.495 and RCW 19.34.010 would be served by PDC guidelines that permit employees to electronically authorize contribution withholding deductions. Labor organizations anticipate that such guidelines would require that the labor organization obtain and retain proof that the employee authorizing the deduction both (1) received and read the admonitions included in WAC 390-17-100, and (2) provided the information required on the form by that regulation.

In light of the general rule that electronic signatures are to be accepted in Washington, it is arguable that it is currently permissible for labor organizations to obtain these authorizations electronically. However, to avoid any confusion – and to assure that labor organizations are not

uniquely disadvantaged as the Commission modifies its guidelines to reflect changing technology – labor organizations request that the Commission explicitly permit electronic authorizations.

It is useful to note, in this context, that at the federal level, the Federal Election Commission (“FEC”) has repeatedly stated its acceptance of electronic authorization as an acceptable method by which contributors may indicate their affirmative authorization of a payroll deduction.

Similarly to the law in Washington, when a payroll deduction or other check-off process is used for a contribution related to a federal PAC, there must be an affirmative authorization by the contributor in order for the deduction to be lawful. *Federal Election Commission v. National Education Association*, 457 F. Supp. 1102 (D.D.C. 1978). The specific and voluntary donative intent of the solicited employee needs to be manifested in a written authorization by him or her prior to the actual deduction of any contributions. *See* FEC Advisory Opinion 1997-25.

The FEC has repeatedly held that this written authorization requirement may be satisfied via electronic means. *See, e.g.*, FEC Advisory Opinion 1999-03, Microsoft PAC, which concluded that an eligible Microsoft employee may use her electronic signature to authorize payroll deduction for her contributions to Microsoft PAC, so long as (1) she is able to use her electronic signature or a written signature to revoke or modify the amount of her authorization at any time, and (2) a record of the submission of the authorizing signature, including verification that the signature came from the particular employee, is maintained. “Verification” could be obtained, in this context, by a confirmatory process through which the PAC, upon receiving an electronically approved payroll deduction form by e-mail, will send an e-mail reply to notify the employee of its receipt of the form and to request final confirmation of the employee’s intention to participate in the payroll deduction program.

In approving the use of the electronic signature in that Advisory Opinion, the Commission noted that its advisory opinions have previously interpreted Commission regulations “to be consistent with contemporary technological innovations, including the maintenance of records in non-paper form and the performance of committee transactions, where the use of the technology would not compromise the intent of the Act or regulations.”

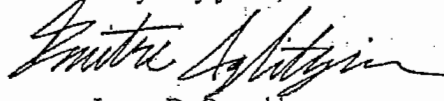
See also FEC Advisory Opinion 2000-22, Air Transportation Association (permitting the use of electronic signatures as a method of granting prior approval for solicitations for SSFs) and FEC Advisory Opinion 2001-04, MSDW PAC (same, noting with approval the use of an “affirmation statement” which requires users to review disclaimers prior to authorizing a deduction, and accepting the typing in of the full name of the employee and his/her Social Security number as constituting an acceptable “electronic signature”).

Labor organizations do not request that contribution withholding authorizations be permitted via text messaging, as the technology is not sufficiently robust to permit labor organizations to provide the disclaimers required or to obtain the information contemplated in WAC 390-17-100.

Public Disclosure Commission
November 30, 2012
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We look forward to the opportunity to discuss this issue with you at greater length in connection with the December 4, 2012 meeting.

Very truly yours,



James D. Oswald
Dmitri Iglitzin

Schwerin Campbell Barnard Iglitzin & Lavitt, LLP

Nancy Krier

From: Dmitri Iglitzin [iglitzin@workerlaw.com]
Sent: Wednesday, January 23, 2013 2:52 PM
To: Nancy Krier
Cc: Lori Anderson
Subject: Electronic Signature on Employee Payroll Deduction Forms (WAC 390-17-100)

Dear Nancy:

Thank you for taking the time to speak with me about this issue yesterday. Consistent with our conversation, I would like to clarify that what the labor organizations represented by myself and Jim Oswald in this matter seek, in addition to the clarifications you have recommended on the first page of your January 16, 2013, memo, is a specific clarification that the term "signature," as used in WAC 390-17-100(2)(g), includes not only written, digital, and electronic signatures, each of which involves either an actual "wet signature" (i.e., an original signature written on a piece of paper with a pen or pencil), or some type of photographic or electronic reproduction or facsimile of such a signature, but also *any form of reliable electronic authorization by an individual that is communicated by that individual to a labor organization.*

As we have discussed, WAC 390-17-100(2)(g) does not itself define "signature," nor is that term defined in the governing statute. Thus, it is appropriate for the Commission to approve an interpretation of this term that is consistent with what we are seeking. Nor is such an interpretation inconsistent with the fact that the "form" that is set forth in WAC 390-17-100 has a line for a wet signature; WAC 390-17-100(2) makes it clear that this particular form is optional, what is important (and required) is only that the form used provide the specified information, including the "signature" required by WAC 390-17-100(2)(g).

As to the rationale behind this request, your memo sets forth persuasively the current statutory scheme and demonstrated legislative desire to promote the use of "reliable electronic messages" (1999's Washington Electronic Authentication Act), including not only forms of "digital signatures" but, in the words of Washington General Court Rule 30, "other equivalently reliable forms of authentication." So long as the form of authentication used by a union or labor organization meets the requirement you are recommending that the Commission include in its interpretation (i.e., that the procedure use provide "reliable authentication" of the payroll deduction authorization), there is no reason *not* to allow forms of electronic authorization other than electronic and digital signatures to be deemed as following within the undefined category of "signatures" contemplated by the regulation. In this regard, we refer you again to the *Morgan Stanley Dean Witter & Co. FEC* decision, AO 2001-04, which specifically approved a "click through" authentication process that did not involve the use of either a wet signature or the reproduction of a such a signature, but simply a secure authentication process.

Moreover, it is important to stress that absent this further clarification, the recommendation you are making to the Commission does not, in fact, serve the purpose of satisfying the concerns expressed by Mr. Oswald and myself in our letter dated November 30, 2012. As a practical matter, unions and labor organizations in this state increasingly communicate with their members not via "snail mail," which (of course) is amenable to the use of wet signatures, but via commonly available electronic means, specifically, e-mail and two-way communications made through our clients' web sites. While some larger institutions, such as law firms and commercial operations, have acquired the technology to "electronically" or "digitally" attach reproductions of wet signatures to electronic communications, I think it is safe to say that not one in a thousand of our clients' members, who are by definition working people, have that technology available to them for their personal use. As a practical matter, requiring our clients to solicit electronic or digital signatures on employee payroll deduction forms means that our clients will be unable to use what is now the most dominant form of communication with our members for this purpose.

What is worse, by adopting an interpretation that only electronic or digital signatures constitute "signatures" for the purposes of WAC 390-17-100(2), the Commission would be creating an uneven playing field, providing a new and useful tool for corporate entities to use to solicit payroll deduction authorization forms from *their* employees, who presumably

will be given access to the corporate entities' more advanced technological resources, while not providing an equally reliable, but far more accessible, authentication process to our clients' members.

I would appreciate your conveying this substance of our stakeholder clients' request to the Commission at tomorrow's meeting, and as I indicated, I will also be present at this meeting, along with Lynne Dodson, Secretary-Treasurer of the Washington State Labor Council, and look forward to speaking to the Commissioners directly on this matter as appropriate.

Thank you again for your assistance and courtesy in this matter.

Sincerely,

Dmitri Iglitzin
Counsel for WSLC and SEIU

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Union Representation - Strategic Organizing - Campaign Finance

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Schwerin Campbell Barnard Iglitzin & Lavitt LLP

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*Original sent via US First Class mail and
Via electronic mail: (nancy.krier@pdc.wa.gov)*

February 19, 2013

Nancy Krier
General Counsel
Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908

Re: Proposed Rulemaking Regarding Electronic Means For Authorizing Payroll
Deductions For Campaign Contributions
SCBIL File No. 2800-046


Dear Ms. Krier:

Following up on the discussion that occurred before the Public Disclosure Commission on January 28, 2013, we are writing to you on behalf of the Service Employees International Union and the Washington State Labor Council to further outline our thinking regarding the wisdom and practicality of permitting labor organizations to arrange for employees to authorize political contribution withholding through reliable electronic methods.

As you are aware, our clients believe that the purpose of both RCW 42.17A.495 and RCW 19.34.010 would be served by a new or newly revised PDC regulation that explicitly permits employees to electronically authorize contribution through payroll deductions. We anticipate that such a regulation would require that the labor organization obtain and retain proof that the employee authorizing the deduction both (1) received and read the admonitions included in current WAC 390-17-100, and (2) provided the information required on the form by that regulation.

In considering this type of regulation, it is important to keep in mind that while RCW 42.17A was adopted in order to serve the disclosure and election campaign financing limiting goals set forth in RCW 42.17A.001, the First Amendment to the United States Constitution enshrines a national policy of encouraging, not limiting, political speech. The First Amendment “has its fullest and most urgent application” to speech uttered during a campaign for political office.” *Eu v. San Francisco County Democratic Central Comm.*, 489 U. S. 214, 223 (1989) (quoting *Monitor Patriot Co. v. Roy*, 401 U. S. 265, 272 (1971)); see also *Buckley v. Valeo*, 424 U. S. 1, 14 (1976) (“Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution”).

Any governmental action that has the effect of restricting political speech “necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of

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their exploration, and the size of the audience reached.” *Buckley*, 424 U.S. at 19. This is no less true in the context of potentially reducing the quantity of expression by a labor organization as it would be in the context of potentially reducing the exercise of speech by an individual. Political speech is “indispensable to decision making in a democracy, and this is no less true because the speech comes from a corporation rather than an individual.” *First Nat. Bank of Boston v. Bellotti*, 435 U. S. 765, 777 (1978) (footnote omitted); see *ibid.* (the inherent worth of speech “does not depend upon the identity of its source, whether corporation, association, union, or individual”).

As a practical matter, as we have previously communicated to the Commission, a requirement that employees who wish to authorize payroll deductions do so via a handwritten (“wet”) signature on a form of the type currently prescribed by the PDC makes it vastly more difficult than it should be for those employees to enable their unions to engage in political speech. Requiring “digital” or “electronic” signatures on such forms has this same result, because the technology necessary to effectuate such authorizations is, as a general rule, wholly unavailable to individual workers, especially workers in the types of jobs that are currently most likely to be represented by a union.

For these reasons, and because this change could be effectuated without losing any of the reliability or verifiability of the current system of requiring handwritten signatures, we propose that the following changes be made to WAC 390-17-100:

- (1) WAC 390-17-100(1)(b) should be revised to read as follows:

For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required for (a) and (b) of this subsection to have on file a record of the electronic or the written authorization of the individual subject to the payroll withholding or diversion of wages.

- (2) WAC 390-17-100(2)(g) should be revised to read as follows:

The individual’s signature or a secure, reliable and verifiable electronic attestation that the political contribution has been authorized by the individual; and

The United States Supreme Court, in its decision in *Citizens United v. Federal Election Commission*, 130 S.Ct. 876, 912 (2010), stated that “Our Nation’s speech dynamic is changing, and informative voices should not have to circumvent onerous restrictions to exercise their First Amendment rights.” We believe that altering the existing regulation in the manner set forth above would accomplish the important goal of enabling the members of labor organizations to easily and efficiently exercise their First Amendment rights through those labor organizations. Moreover, it would do so in a manner that is consistent with developing standards and norms of communication (i.e., through the use of the internet), but which is also secure, reliable, and verifiable, including but not limited to being capable of being maintained by the employer and open for public inspection for three years, as necessary, and also being capable of being delivered to the Commission upon request, per RCW 47.17A.495(4)).

Public Disclosure Commission
February 19, 2013
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We look forward to the opportunity to discuss this issue with the Commission at greater length in person at the February 28, 2013, meeting.

Very truly yours,



Dmitri Iglitzin
James D. Oswald

cc: Lynne Dodson
Mike Nelson

OPTION # 1 – Clarifies that Electronic Authorizations Are Permitted - Retains Signature Requirement

WAC 390-17-100

Contribution withholding authorizations.

(1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington.

(a) For the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or

(b) For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required for (a) and (b) of this subsection to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Forms used for payroll deduction may either conform to the suggested format below or in a different format **including an electronic format** if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;

(f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;

(g) The individual's signature; and

(h) The date on which the form was completed.

(3) **If the signature is provided electronically or digitally, the procedure must provide a reliable and secure authentication of the signature by the individual authorizing the withholding or diversion, such as a verification that the signature came from the individual.**

(4) Forms used for payroll deduction may have information in addition to that listed above.

(5) The completed forms, with the individual's signature or verification of an electronic or digital signature, must be maintained and open for public inspection for three years, and provided to the commission upon request.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a nonresident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without written permission from that individual. Completion of this form entitles the entity specified to make such a withholding. This authorization form remains in effect until revoked in writing by the employee.

I, _____, authorize

First Name Middle Initial Last Name

Name of Employer or Other Person

to withhold \$

per/pay period/week/month/year/

Amount

Circle One

from my earnings in order to make political contributions to

Name of

political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____.

Signature: _____

Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

OPTION # 2 – Clarifies that Electronic Authorizations Are Permitted, Permits Alternative to “Signature” Requirement

WAC 390-17-100

Contribution withholding authorizations.

(1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington.

(a) For the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or

(b) For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required for (a) and (b) of this subsection to have on file the written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Forms used for payroll deduction may either conform to the suggested format below or in a different format **including an electronic format** if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;

(f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;

(g) The individual's signature **or other reliable and secure verification that that the individual is authorizing the withholding or diversion;** and

(h) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above.

(4) The completed forms, with the individual's signature or verification, must be maintained and open for public inspection for three years, and provided to the commission upon request.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a nonresident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without written permission from that individual. Completion of this form entitles the entity specified to make such a withholding. This authorization form remains in effect until revoked in writing by the employee.

I, _____, authorize

First Name Middle Initial Last Name

Name of Employer or Other Person

to withhold \$

per/pay period/week/month/year/

Amount

Circle One

from my earnings in order to make political contributions to

Name of

political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____.

Signature: _____

Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

**OPTION # 3 – Clarifies that Electronic Authorizations Are Permitted, Permits Alternative to “Signature” Requirement
Proposal by Mr. Iglitzin and Mr. Oswald**

WAC 390-17-100

Contribution withholding authorizations.

(1) Each employer or other person who withholds or otherwise diverts a portion of wages or salary of a Washington resident or a nonresident whose primary place of work is in the state of Washington.

(a) For the purpose of making one or more contributions to any political committee required to report pursuant to RCW 42.17A.205, 42.17A.215, 42.17A.225, 42.17A.235 or 42.17A.240; or

(b) For use, specifically designated by the contributing employee, for political contributions to candidates for state or local office is required for (a) and (b) of this subsection to have on file **a record of the electronic or the** written authorization of the individual subject to the payroll withholding or diversion of wages.

(2) Forms used for payroll deduction may either conform to the suggested format below or in a different format if it provides the following information:

(a) The name of the individual authorizing the withholding or diversion;

(b) The name of the individual's employer;

(c) The name of each political committee for which contributions are to be withheld;

(d) If more than one political committee is specified, the total dollar amount per pay period (or per week, month or year) to be withheld for each committee;

(e) A statement specifying that the authorization may be revoked at any time and such revocation shall be in writing;

(f) A statement that reads: "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee"; or a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495;

(g) The individual's signature **or a secure, reliable and verifiable electronic attestation that the political contribution has been authorized by the individual;** and

(h) The date on which the form was completed.

(3) Forms used for payroll deduction may have information in addition to that listed above.

Political Contribution Withholding Authorization

No employer or other person may withhold a portion of a Washington State resident's earnings (or that of a nonresident whose primary place of work is in Washington) in order to make contributions to a political committee that must report to the Public Disclosure Commission or to a candidate for state or local office without written permission from that individual. Completion of this form entitles the entity specified to make such a withholding. This authorization form remains in effect until revoked in writing by the employee.

I, _____, authorize

First Name Middle Initial Last Name

Name of Employer or Other Person

to withhold \$

per/pay period/week/month/year/

Amount

Circle One

from my earnings in order to make political contributions to

Name of

political committee(s) and/or candidate(s) to receive deductions

If more than one recipient is indicated, each is to receive the following portion of the deduction made: _____

Signature: _____

Date: _____

According to state law, no employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.

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Employee notification of withholding provisions.

(1)(a) By June 30, 2003, and at least annually by June 30 thereafter, employees from whom funds are being withheld for contributions to a candidate or political committee under RCW 42.17A.495 shall be notified, in writing, of the nondiscriminatory provisions of RCW 42.17A.495(2). Employee notification shall include the following language:

"No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for:

- (i) The failure to contribute to;
- (ii) The failure in any way to support or oppose; or
- (iii) In any way supporting or opposing a candidate, ballot proposition, political party, or political committee."

(b) The written notification shall be provided by the employer or labor organization. The employer or labor organization may agree on which entity shall send the notification.

(2)(a) Pursuant to RCW 42.17A.495(3), by June 30, 2003, and at least annually by June 30 thereafter, each employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries shall ensure written notification is directly provided to the employees from whom funds are being withheld for contributions to a candidate or political committee stating that the employee authorization for withholding of wages or salary for such contributions may be revoked at any time. The employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries and the candidate, political committee, or sponsor of the political committee may agree on which of them shall send the notification.

(b) The written notification shall identify where an employee can submit the revocation, which shall be either:

- (i) The name and address of employer's contact; or
- (ii) The name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries.

(c) The employee withholding authorization is revoked as of:

- (i) The date specified in the revocation; or
- (ii) If no date is specified, as of the date the written notification is received by the employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries pursuant to RCW 42.17A.495.

(3) "Written notification" means notice provided by mail, e-mail, newsletter, payroll insert or other similar direct communication in writing that is addressed to the employee. Posting information on web sites, bulletin boards and other passive communication vehicles shall not constitute notification under RCW 42.17A.495. If the written notification appears in a newsletter or similar publication, the notice shall be prominently displayed or announced on the first page of the written communication.

(4) Each employer or other person who provides notice pursuant to subsection (1) or (2) of this section shall maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.

[Statutory Authority: RCW 42.17A.110, 12-03-002, § 390-17-110, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370, 03-08-050, § 390-17-110, filed 3/28/03, effective 4/28/03.]