

Item #6 - Staff Memorandum



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Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Lead Analyst
Whitney Barazoto, Executive Director
DATE: June 26, 2020
RE: Signature validation for campaign statements filed electronically

This memorandum summarizes the existing process for verification of signatures on electronically filed campaign statements and describes the Commission's new, streamlined process.

Legal Background

The California Political Reform Act (PRA) requires all local candidates and campaigns to file campaign statements with the local filing officer according to a schedule of deadlines set by the PRA. [Section 84615](#) of the PRA allows local government agencies to oblige persons required to file campaign statements and reports under the California Political Reform Act to file those statements, reports, or other documents online or electronically with the local filing officer.

Specifically, section 84615(g) requires: "The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to [Section 81004](#)." No specific technology or process for signature verification is proscribed by Section 84615. The Code does require that "the online or electronic filing system will operate securely and effectively and [will] not unduly burden filers."

The Oakland Campaign Reform Act [Section 3.12.240](#) mandates that "Any person required by State or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission..." There is no provision within OCRA mandating a specific technology or process for signature verification, and the Oakland City Attorney's advice to the PEC regarding electronic signatures did not identify any Oakland law or policy regarding electronic signatures that the PEC is obliged to follow.

However, the City Attorney has advised that, in California, electronic signatures are generally governed and given legal effect by the California Uniform Electronic Transactions Act (California Civil Code Sections 1633.1, et seq). Under CUETA an electronic signature can be an electronic sound, symbol or process attached to or logically associated with an electronic record. For the electronic signature to be valid it must meet three requirements:

1. It must be executed or adopted by a person with the intent to sign the electronic record.
2. The parties must have agreed to conduct the transaction by electronic means.

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3. The electronic signature must be properly authenticated by the person to ensure it was an act attributable to that person.

Signature Verification Process for Campaign Statements

When the PEC took over filing officer duties for campaign statements in 2017, staff assumed administration of the electronic filing system for campaign statements (NetFile) and continued the signature verification process implemented by City Clerk's Office.

To utilize the NetFile system, filers must first contact the Public Ethics Commission and submit a copy of their Statement of Organization (FPPC Form 410). The initial form must be wet-signed and submitted to the California Secretary of State. The Statement of Organization includes the committee's officers and email address of record. When a NetFile account is established, a unique user ID and password are sent to the committee email of record. Users of the NetFile system must enter the ID and password to link their submissions to the campaign account. A user, therefore, cannot access a committee's account without a notification being generated and sent to the email contact of record. This process prevents third parties from submitting unauthorized statements on a committee's behalf.

In addition to the NetFile process outlined above, we currently utilize a second signature authentication process to ensure the identity of the signatories. Candidates and treasurers must create an account in NetFile's signer ID system, which is separate from the system where users record transactions and create their statements. Each signer creates a user account and generates a signature packet with a unique signer ID and PIN, which they must print out, bring to the PEC office, present with a government-issued photo ID, and sign in the presence of PEC staff. If the committee officers cannot come into the PEC office, they must get the signature packet notarized and forward it to the PEC. Committees cannot submit their campaign forms electronically until staff approves both signer IDs and the filer must enter the ID on all electronic filings.

In addition to entering the signer ID of the candidate and treasurer, when a campaign form requiring a signature is submitted to the NetFile system an email is sent to each signer notifying them that they must review and approve the filing. The signers must then log in with their signer ID and PIN, review the statement, and approve or reject the statement. The statement is not filed until both signers approve the statement.

Concerns with the Signature Verification Process

In our four years as filing officer, staff has noted the burdensome nature of the signature verification process for filers and staff. Seemingly simple aspects of the signature process generate the large majority of technical assistance requests, usually during the peak times for advice and assistance in the week of a filing deadline.

Simply generating the signature card and ID packet via the NetFile system is difficult for many filers, who must come into the office so staff can assist them with generating and printing out the packet. Requiring signatures witnessed by staff means candidates and treasurers must take time off during the workday.

Another challenge for filers is keeping track of the multiple accounts, passwords and PINs required for one committee. A candidate committee must keep track of four separate user accounts, two passwords and two signer PINs – an account ID and password for the committee, a user ID and

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password for the person creating the report, and a signer ID and PIN for each signer. Filers are often confused about which account is which and that they must log-in to two separate systems to complete a filing. They misplace their signer IDs and PINs and lose track of which email addresses are associated with which accounts.

Problems with the final step of reviewing and approving the statement after clicking e-file is another one of the top reasons for technical assistance calls to staff. Often the notifications are sent to email accounts that are either overfull or rarely used and consequently signers miss the notifications or don't know how to sign-in to approve their filings. In addition, users report they cannot log-in to approve statements using their mobile devices. Filers click "e-file" and believe the process is complete. These small inconveniences add up to untimely filings in some cases. In addition, staff time is unnecessarily spent on technical assistance rather than more substantive issues.

The issue of the most immediate concern is that the PEC's public office is closed for the foreseeable future due to the COVID-19 pandemic and the majority of 2020 candidates and treasurers have not yet had to file their first campaign statement and therefore have not yet submitted their signature packets. To process the signature packets utilizing the normal process would require either opening our front office or requiring candidates and treasurers to visit a notary and mail in the packets.

Signer Verification in Other Jurisdictions

According to NetFile, of the 70 cities and 20 counties that use their electronic system for campaign filings, only four cities require the extra signature verification step: San Francisco, Oakland, Berkeley and San Diego. The San Francisco system is identical to Oakland's, likely because Oakland modeled its system after San Francisco, one of the first cities to adopt electronic filing. In the other cities and counties using NetFile, the owner of the NetFile user account may submit their statement without the additional step requiring both signers to review and approve the filing by entering their PIN. Also notable is that Oakland users of NetFile's professional software avoid the review and approval step altogether. The signer IDs are entered once and the approval step is skipped. So, users of the free version of the software face an additional step that those with resources to hire a professional treasurer may skip.

Two jurisdictions with electronic filing that do not use NetFile, the California Secretary of State and Los Angeles, simply require filers to sign a brief account request form before granting access to their electronic filing system (see attached). Both the State and Los Angeles e-filing registration forms require the filer to sign an acknowledgment that they understand the information submitted via the e-filing systems are made under penalty of perjury. Neither the Secretary of State nor Los Angeles require filers to produce an ID or sign the form in the physical presence of staff.

Conclusion

The current process of requiring a second authentication via in-person signature card is both burdensome and unnecessary. The NetFile filing system already meets the standard set out by State law, and there are no legal or security issues that require maintaining the redundant, multistep verification process. Therefore, Commission staff will eliminate the in-person signature card process and instead create a simple form that includes an agreement to conduct all further transactions electronically and that can be signed and submitted electronically. This process will allow campaign filings to be submitted without any in-person contact, which is particularly important during the COVID-19 pandemic but will continue indefinitely.