

Seattle Ethics and Elections Commission Regular Meeting

November 2, 2022

A regular meeting of the Seattle Ethics and Elections Commission (SEEC) convened in Seattle Municipal Tower Conference Room 4080 and remotely. Chair Hardeep Singh Rekhi called the meeting to order at 4:02 p.m. The Chair was in attendance with Vice Chair Zach Pekelis, and Commissioners Kristin Hawes, Richard Shordt, Chalia Stallings-Ala'ilima, and Susan Taylor attending remotely. Staff members Fedden Amar, Cliff Duggan, Randal Fu, and René LeBeau were present, with Executive Director Wayne Barnett and Assistant City Attorneys Ariel Schneier and Gary Smith joining remotely.

The Chair welcomed the Commissioners and staff and noted the one Final Action item is to vote on the proposed rule regulating the collection of Democracy Voucher Replacement Forms. The Chair recognized that Mr. Bill Caldwell was present to give public comment. Mr. Caldwell introduced himself and read a statement regarding the proposed rule.

The Chair read the three submitted written public comments concerning the proposed rule.

Final Action Items

1. Proposed rule regulating the collection of Democracy Voucher Replacement Forms

The Chair then opened the floor to the Commissioners for any questions or comments on the proposed rule. The Chair commented that the proposed rule reflects the ongoing duty of the Commission to protect the innovative Democracy Voucher Program. There will always be tweaks to protect the program and continue to run it for the purpose it was envisioned for.

Commissioner Taylor requested an explanation of the most recent changes in the rule language (Section 1.C). The Director explained the change was to make sure that it did not in some

way impinge upon a campaign's ability to rely on a campaign worker, be it the campaign manager or a staffer, to collect replacement vouchers. This is a different than one a person paid to gather signatures who may not even know the candidate (as referenced in Mr. Caldwell's comments earlier). There was a need to define and clarify "volunteer".

Commissioner Pekelis asked a question about Section 1.C and the reasoning behind the collection time restrictions. The Director said the purpose was to stop someone from saying "I was volunteering for 30 seconds and collected the voucher form, but then I was on the clock." Again, something that would permit a campaign manager to be out collecting voucher replacement forms in a way that did not have it be somewhat false. If a person was paid and said they were volunteering for each of the ten seconds that a person signs a replacement form over to them, that would not work for the Commission.

Commissioner Pekelis then asked if the volunteering restriction would apply to someone who is a paid campaign employee. The Director responded in the affirmative. The Chair commented that what he is hearing is that the SEEC did not want people who are paid to collect Democracy Voucher Replacement Forms. And, to prohibit somebody to come up with a creative way of saying they are paid just to advocate for a campaign, then stop for 30 seconds to volunteer while the replacement form is collected.

Commissioner Stallings-Ala'ilima said she understood the concerns that the rule is attempting to address. Hypothetically speaking, we are talking about a full-time campaign employee who has met the candidate and knows the issues who is standing on a corner passing out flyers and collecting the Voucher Replacement Forms. Would that type of person, if they were doing that on their work time and being paid, be as concerning as paying folks who do not know anything about the issues and were just there to get money and collect as many replacement forms

as possible? The Chair asked if campaign workers can be paid to collect just Democracy Program Vouchers and not the Democracy Voucher Replacement Forms. The Director said yes, they could be paid to collect Democracy Program Vouchers. The Chair said it would be challenging to draft something that delineates between the two types of people in Commissioner Stallings-Ala'ilima's question.

The Director reiterated that while talking about hypothetical people, the Commission is really trying to draft a rule that does not get at anything other than what has been observed. The rule does not provide an easy end run. This effort was to try to draft a rule that was not easily evaded with creative bookkeeping. Commissioner Stalling-Ala'ilima wanted clarification on which activities were more of concern. As an example, campaigns provide information or waivers to the Employment Security Department where an employee has been employed by the campaign for three-quarters of the year. The Commissioner was wondering if there were other ways to provide assurance that this is somebody who is getting it based on yes, they are getting paid for it, but it is not just that they're taking their hat off for a couple of seconds, but it is part of overall activities. The Commissioner understands there is no right answer to this and thanked the Director for providing more clarification.

Commissioner Shordt took a moment to voice support of the rule and appreciation for the hard work that the Director, the Assistant City Attorneys, and the team put into it. The Commissioner also acknowledged that it has been difficult to get the right language down but believes this language strikes a good balance. And, crafting it in such a way that it is adhering to the spirit of the rules. The Chair stated he is also supportive of the rule and thinks the language here does provide a way for campaigns to meaningfully separate their regular paid contact from their unpaid contact. If they establish that, they would still be in compliance with this rule.

Vice Chair Pekelis had an additional question about sanctions. It looks like the rule only sanctions for violations in voiding a replacement form. The Director believes the answer would be yes. The Commissioner then asked if there were evidence that if a campaign was involved in violation of this rule, would there be other sanctions that apply under different regulations? The Director responded the Commission could be resourceful and find a way to address misconduct; however, he would need to investigate the matter further.

Commissioner Stallings Ala'ilima requested to pin this for the future to maybe pay attention to it. What the Commissioner is concerned about is opening the door for campaigns to start pursuing unpaid labor; employees feeling like they must put in extra time to do this. Commissioner Stallings Ala'ilima supports this real change but asks that the Commission pay attention to the concern that this rule would encourage opening the door for campaigns to start pursuing unpaid labor. The Commissioner is concerned about employees feeling like they must put in extra time to do this.

The Director thanked the Commissioner for the comments and said the Commission will be on guard and looking for unintended consequences. The Chair hopes campaigns would not force people to do volunteer work that would violate a host of other laws, especially in Seattle.

Commissioner Stallings-Ala'ilima is also supportive of the rule and appreciates comments that this is a work in progress of a relatively new program. The Commission is looking at ways to improve it and ensure that it is functioning as intended. This seems like a good next step; and then it can be assessed as any changes are seen allowing the Commission to decide if additional changes or enforcement mechanisms need to be put in place.

The Chair asked how this rule would be disseminated to the campaigns. Will there be a proactive process in place? The Director stated that the SEEC will certainly put the rule out to the

public making sure there is no one going into 2023 thinking they are able to hire people to do gather Democracy Voucher Replacement Forms for them.

Commissioner Taylor asked if any comments or questions were received from campaigns regarding the rule. The Director explained that one individual had emailed about the rule, but did not submit written public comment and was not present to provide oral comment at today's meeting. The Commissioner mentioned that this was helpful in terms of thinking about unexpected consequences and that the public had an opportunity to respond.

Hearing no other questions or comments, the Chair put the proposed rule to a vote. Commissioners voted unanimously to adopt the rule "Regulating the Collection of Democracy Voucher Replacement Forms 2022." The Chair thanked the Director and everyone that worked on the rule to resolve this issue from last year. The Chair is looking forward to hearing how the campaigns respond to the rule and if any other tweaks will be needed going forward. The Chair also thanked those who submitted public comment at the meeting and through emails.

The Chair asked if there were any additional items for the good of the order. Upon hearing none, the Chair thanked everyone for attending the meeting and is looking forward to seeing them at the December 7 Regular Meeting. The Chair adjourned the November 2, 2022, SEEC Commission Regular Meeting at 4:32 p.m.