

**AGENDA DOCUMENT NO. 11-13**



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

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February 17, 2011

**MEMORANDUM**

**TO:** The Commission  
**FROM:** Christopher Hughey *pch*  
Acting General Counsel

Lawrence L. Calvert, Jr. *LLC*  
Associate General Counsel  
General Law and Advice

Lorenzo Holloway *LH*  
Assistant General Counsel  
Public Financing and Audit Advice

Allison T. Steinle *ATS*  
Attorney

**SUBJECT:** Withdrawal and Resubmission of Proposed Interpretive Rule  
Regarding Electronic Contributor Redesignations (LRA 820)

Please find attached for your approval the subject proposed interpretive rule. This document was originally circulated on February 16, 2011. We are withdrawing the prior circulation of this document to correct circulation instructions and to correct the signature and date lines.

This document is being circulated on a weekly tally vote basis. Should an objection be received, it is recommended that the document be placed on the agenda for the next regularly scheduled open session meeting. If you have any questions, please contact Allison T. Steinle, the attorney assigned to this matter.

Attachment

**AGENDA ITEM**

**For Meeting of 3/16/11**

1 **FEDERAL ELECTION COMMISSION**

2 **11 CFR Part 110**

3 **[Notice 2011—XX]**

4 **Interpretive Rule Regarding Electronic Contributor Redesignations**

5 **AGENCY:** Federal Election Commission

6 **ACTION:** Notice of Interpretive Rule

7 **SUMMARY:** Commission regulations require that a contributor’s redesignation of a  
8 contribution for another election be in writing and signed by the  
9 contributor. The Commission construes the requirements of 11 CFR  
10 110.1(b)(5) and 110.2(b)(5) to encompass a certain method of  
11 electronic redesignation. The method of electronic redesignation is  
12 described in the supplementary information below.

13 **DATES:** This Interpretive Rule is effective [insert date of publication in the  
14 Federal Register].

15 **FOR FURTHER  
16 INFORMATION**

17 **CONTACT:** Allison T. Steinle, Attorney, Office of General Counsel, 999 E Street,  
18 NW, Washington, DC 20463 (202) 694-1000 or (800) 424-9530.

19  
20 **SUPPLEMENTARY INFORMATION:** Commission regulations require that a contributor’s  
21 redesignation of a contribution for another election be in writing and be signed by the  
22 contributor. 11 CFR 110.1(b)(5) and 110.2(b)(5). The Commission, however, recognizes that it  
23 should interpret the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 et seq.  
24 (“the Act”) and its regulations “consistent with contemporary technological innovations . . .

1 where such technology would not compromise the intent of the Act and regulations.” Advisory  
2 Opinion 1999-09 (Bradley for President); see also Advisory Opinions 2007-30 (Dodd); 2007-17  
3 (DSCC); 1999-36 (Campaign Advantage); 1999-03 (Microsoft PAC); 1995-09 (NewtWatch).

4 The Commission recently determined that a specific practice engaged in by a political  
5 committee provided the same degree of assurance of the contributor’s identity and the  
6 contributor’s intent to redesignate the contribution as a handwritten signature. Accordingly, the  
7 Commission determined that the practice met the requirements of 11 CFR 110.1(b)(5). The  
8 Commission believes it is important to inform the public, including political committees and  
9 their treasurers, of this determination.

10 The specific method approved by the Commission worked in the following manner: The  
11 political committee informed contributors through postal mail or e-mail that, by visiting a  
12 website printed in the letter or by clicking on a link in the e-mail message, they could redesignate  
13 their contributions to another election if they wished to do so. Contributors who visited the  
14 website were asked to fill out an electronic form affirmatively authorizing the redesignation and  
15 verifying their identity by entering their personal information, including first and last name,  
16 address, phone number, e-mail address, occupation, and name of employer. Upon completing  
17 the form, contributors received an on-screen message thanking them for their redesignation. The  
18 political committee verified the information against its records and retained a receipt or record of  
19 the electronic redesignation in a manner consistent with the recordkeeping requirements for  
20 signed written redesignations under 11 CFR 110.1(l). The Commission concluded that this  
21 process provided assurance of contributor identity and intent equivalent to a written signature.

22 Accordingly, the Commission construes the requirements of 11 CFR 110.1(b)(5) and  
23 110.2(b)(5) to encompass the method of electronic redesignation described above.

1 In 2002, the Commission rejected the use of e-mail redesignations when it considered  
2 eliminating the signature requirement for redesignations and reattributions that cannot be  
3 presumptively redesignated or reattributed. Explanation and Justification for 11 CFR  
4 110.1(b)(5), 67 Fed. Reg. 69,928, 69,934 (Nov. 19, 2002). The Commission continues to be of  
5 the view that an e-mail sent from a contributor to a committee, by which the contributor attempts  
6 to redesignate a contribution, would not, by itself, meet the requirements of 11 CFR 110.1(b)(5)  
7 and 110.2(b)(5). Because the specific method approved by the Commission requires the  
8 contributor to provide personal information that can be verified against a committee's records, it  
9 provides a level of assurance as to the contributor's identity and intent more comparable to that  
10 of a written signature than an e-mail alone.

11 While the Commission encourages the use of innovations in technology to effectuate  
12 electronic redesignations, committees are advised that the Commission will consider other  
13 methods of electronic redesignation not explicitly addressed in this interpretive rule on a case-  
14 by-case basis. Committees are also advised that this interpretive rule does not alter or affect the  
15 timing or recordkeeping requirements of 11 CFR 110.1 or 110.2.

16 This Federal Register notice represents an interpretive rule announcing the general course  
17 of action that the Commission intends to follow. This interpretive rule does not constitute an  
18 agency rule requiring notice of proposed rulemaking, opportunities for public participation, prior  
19 publication, and delay in effective date under 5 U.S.C. 553 of the Administrative Procedure Act  
20 ("APA"). As such, it does not bind the Commission or any members of the general public, or  
21 create or remove any rights, duties, etc. The provisions of the Regulatory Flexibility Act, which  
22 apply when notice and comment are required by the APA or another statute, are not applicable.  
23 See 5 U.S.C. 603(a).

On behalf of the Commission,

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Cynthia L. Bauerly  
Chair  
Federal Election Commission

DATED: \_\_\_\_\_  
BILLING CODE: 6715-01-P