City of Seattle

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Finance and Administrative Services

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Rule FHDR-3, Certification of an Exclusive Driver Representative (SMC 6.310.110 and .735.F)

This Rule establishes the process to certify an Exclusive Driver Representative (EDR) as authorized by the Seattle Municipal Code.

Collection and Submittal of Drivers' Statements of Interest

Within 120 calendar days of receiving driver contact information via a qualifying driver list from a particular Driver Coordinator, a designated Qualified Driver Representative (QDR) seeking certification as an EDR may petition and submit statements of interest to the Director, or to a governmental entity or independent third party designated by the Director (as explained in greater detail below) from at least a majority (i.e., 50% + 1) of qualifying drivers from the driver list. A QDR will notify the Driver Coordinator that contracts with the drivers that the QDR seeks to represent on the same day that it submits a request for certification.

A QDR may choose to use either an electronic option or a paper-based option (but not a combination of the two options) to collect drivers' statements of interest. Within 3 calendar days of the start of the 120-day period to collect drivers' statements of interest, the QDR must inform the City and the applicable Driver Coordinator of which collection method it intends to use.

Electronic Option

1. In addition to the driver's full name (first, last, and middle initial), the QDR's name, and the name of the driver's Driver Coordinator, which must be set forth as provided in subsection d. below, an electronic statement of interest submitted must clearly and conspicuously show:
    a. Driver's e-mail address
    b. Driver's telephone number
    c. Valid for-hire driver license/permit number issued by King County/City of Seattle[1]
    d. The following language:
        i. "I, (name of driver), want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator). It is my intent that my name typed below is my signature."

           "I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards,

[1] For purposes of collecting statements of interest, a driver must possess a valid (i.e., unexpired or, if expired, expired for no more than 60 days) for-hire driver license/permit on the date he/she signs the statement. Sixty days is given as a grace period while an expired license/permit goes through the renewal process.

and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

e. Driver's electronic signature
f. Date the electronic signature was provided

2. No language other than those items set forth in section 1 will appear on the screen or other visual display that the driver sees when the driver provides an electronic signature.

3. A QDR submitting electronic signatures must provide access to the system or technology used so that the party verifying can view all statements and signatures submitted for consideration, and must also submit the following:
    a. A declaration, signed by the QDR's representative under penalty of perjury, that:
        i. Identifies what steps were taken to ensure: (i) that the electronic signature is that of the signatory driver, and (ii) that the driver herself signed the document and
        ii. Confirms that the electronically transmitted information showing what the drivers signed is the same information seen and signed by the drivers
    b. A petition request on a City supplied form that, among other things, will state when the QDR received the driver list from the Driver Coordinator
    c. An electronic copy of the version of the qualifying driver list received from each Driver Coordinator the QDR seeks to represent

Paper-Based Option

1. In addition to the driver's full name (first, last, and middle initial), the QDR's name, and the name of the driver's Driver Coordinator, which must be set forth as provided in subsection d. below, a paper-based statement of interest submitted, which can be either an individual card or a signature list, must clearly and conspicuously show:
    a. Driver's e-mail address
    b. Driver's telephone number
    c. Valid for-hire driver license/permit number issued by King County/City of Seattle[2]
    d. The following language:
        i. In the case of an individual card: "I (name of driver) want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator)."
        "I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including

[2] For purposes of collecting statements of interest, a driver must possess a valid (i.e., unexpired or, if expired, expired for no more than 60 days) for-hire driver license/permit on the date he/she signs the statement. Sixty days is given as a grace period while an expired license/permit goes through the renewal process.

about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

ii. In the case of a signature list, with signatures listed below: "I, the undersigned, want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator)."

"I understand that my signature means that I want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers. Any agreement that is reached will need to be approved by the City of Seattle. If a majority of drivers who are considered "qualifying drivers" under the law sign statements of interest, then (QDR) will become the representative of all (Driver Coordinator)'s drivers, and drivers will then negotiate collectively through (QDR)."

e. Driver's handwritten signature
f. Date the handwritten signature was provided

2. No language other than those items set forth in section 1 will appear on the individual card or the signature list page that a driver signs.

3. A QDR submitting signatures handwritten on paper must also submit:
    a. A petition request on a City supplied form
    b. Scanned copies of all signed statements of interest submitted via a means specified by the City such as a secure file transfer protocol (ftp) site or similar
    c. Hard copies of all original signed statements of interest
    d. An electronic copy of the version of the qualifying driver list received from each Driver Coordinator whose drivers the QDR seeks to represent

Foreign Language Translations

A QDR is strongly encouraged to make paper-based or electronic-based statements of interest and any related materials, regardless of paper, electronic or other format, available to drivers in languages in addition to English. Possible languages include Somali, Amharic, Oromo, Tigrinya, Hindi, Punjabi and Spanish. Certified translated versions of the English language statements set forth in 1(e) above will be accepted.

Expiration and Validity of a Driver's Signature

1. Under either the electronic or paper-based option, a qualifying driver's signature is valid for one year from the date the driver signed a statement of interest, unless that qualifying driver has signed a later-dated statement revoking his or her support for the QDR that is dated on or before the date the statements supporting representation by

the QDR are submitted for verification. The signing date must be shown; if the signing date cannot be established, the statement will be deemed invalid. If the verification process is extended for any reason, the Director may extend the validity of a signature.

2. An electronic or handwritten signature submitted by a QDR in support of representation is presumed to be valid unless called into question by objective evidence submitted to the City or records in the City's possession.

3. Nothing will prohibit a qualifying driver from signing statements of interest in support of more than one QDR. If a qualifying driver does so, any and all such statements of interest may be verified and counted.

Revocation of Statements of Interest

Any revocations of support for a QDR must be in the same format (electronic or paper-based) as the original statement of interest.

Electronic Option

1. An electronic statement revoking support for a QDR will include the same information required to be included in a statement of interest, except that instead of the language expressing support for a QDR an electronic revocation must state the following (or a translated version of the following):

   "I, (name of driver), do <u>not</u> want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting that (QDR) that I have previously signed. It is my intent that my name typed below is my signature."

   "I understand that my signature means that I do <u>not</u> want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."

2. No language other than those items set forth in section 1 will appear on the screen or other visual display that the driver sees when the driver provides an electronic signature.

3. A person submitting electronic signatures must provide access to the system or technology used so that the party verifying can view all statements and signatures submitted for consideration, and must also submit a declaration, signed by the person submitting the statements under penalty of perjury, that:
   a. Identifies what steps were taken to ensure: (i) that the electronic signature is that of the signatory driver, and (ii) that the driver herself signed the document,
   b. Confirms that the electronically transmitted information showing what the drivers signed is the same information seen and signed by the drivers.

4. The signing date must be shown; if the signing date cannot be established, the revocation will be deemed invalid.

Paper-Based Option

1. A paper-based statement revoking support for a QDR will include the same information required to be included in a statement of interest, except that instead of the language expressing support for a QDR a paper-based revocation must state the following (or a translated version of the following):
    a. In the case of an individual card: "I, (name of driver), do <u>not</u> want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting that (QDR) that I have previously signed."

       "I understand that my signature means that I do <u>not</u> want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."
        i. Driver's handwritten signature
        ii. Date the handwritten signature was provided

    b. In the case of a signature list, with signatures listed below: "I, the undersigned, do <u>not</u> want to be represented by (name of QDR) for the purposes of collective negotiations with (name of driver's Driver Coordinator), and hereby revoke any statements of interest supporting the (QDR) that I have previously signed."

       "I understand that my signature means that I do <u>not</u> want (name of QDR) to negotiate with (Driver Coordinator) on behalf of all drivers about the terms and conditions of our work for (Driver Coordinator), including about payments to/from drivers, safety and vehicle equipment standards, and other rules that apply to drivers."
        i. Driver's handwritten signature
        ii. Date the handwritten signature was provided

2. No language other than those items set forth in section 1 will appear on the individual card or the signature list page that a driver signs.

3. A person submitting signatures handwritten on paper must also submit:
    a. Scanned copies of all signed statements of revocation submitted via a means specified by the City such as a secure file transfer protocol (ftp) site or similar
    b. Hard copies of all original signed statements of revocation

4. The signing date must be shown; if the signing date cannot be established, the revocation will be deemed invalid.

Public Records Requests and Confidentiality of Materials Used to Verify Statements of Interest or Investigate Challenges to an EDR Certification or Non-Certification
During the processes to verify drivers' statements of interest or to challenge a certification or non-certification of an EDR, whether being verified by the City, a governmental entity or independent third party designated by the Director, if the City receives a public records request for records designated as confidential by the submitting party, the City will notify the submitting party in writing of the request and will postpone disclosure. The party will be allowed an opportunity to obtain and serve the City with a court order to prevent the City from releasing the records.

Verification of Qualifying Drivers' Statements of Interest and Certification of an EDR
Qualifying drivers' statements of interest submitted by QDRs will be verified or deemed invalid within 27 calendar days of receipt by the City, a governmental entity or independent third party designated by the Director unless more than one QDR has given notice of intent to represent drivers of a particular Driver Coordinator.

If more than one QDR has given such notice, the qualifying drivers' statements of interest will be verified or deemed invalid within 27 calendar days of receiving statements of interest from all QDRs seeking to represent drivers of that Driver Coordinator (or within 27 calendar days of the deadline for submitting statements of interest for that Driver Coordinator, whichever of the two dates occurs first).

Statements may be verified by comparing one or more of the following elements against a source document, including a list of qualifying drivers produced by a Driver Coordinator, to provide reasonable assurance that the statement was signed by the qualifying driver:

1. Name

2. Signature

3. Telephone number

4. E-mail address

5. Unique personal identifier (e.g., a City/King County issued for-hire driver license number)

During the verification period, the City, a governmental entity or independent third party designated by the Director may seek additional information from either a Driver Coordinator or a QDR if such information assists in the timely completion of the verification process. In the event that the governmental entity or independent third party chooses to use source document(s) generated within the City/King County for-hire driver licensing process, then the City is authorized to release that information to the governmental entity or independent third party.

A Driver Coordinator, a QDR or other party may provide additional records to assist the verification process, such as signatures or unique personal identifiers of qualifying drivers, even if not requested by the Director, a governmental entity or independent third party. Such records, as well as any statements by qualifying drivers revoking support for a QDR or any other records or evidence that should be considered as part of the verification process, will be submitted within 5 calendar days of the QDR's submission of the request seeking certification as an EDR or may be disregarded.

The Director will select from one of three options to verify drivers' statements of interest:

1. Dedicate staff from the Department of Finance and Administrative Services or another City department.

2. Use the City's contracting process to establish a list of independent third-party vendors. The QDR seeking to represent drivers and the Driver Coordinator will then either agree upon a third-party vendor or will take turns striking the names of vendors listed by the Director until one is chosen. The vendor's services will be paid for by the City.

3. Secure the services of a governmental entity other than the City through a contract, memorandum of understanding or another instrument. Services provided by the governmental entity will be paid for by the City.

The option selected by the Director will be used to verify the statements submitted by all QDRs associated with a particular commencement date.[3] The Director will announce by e-mail and/or an online notification which option has been selected for the verification no later than 125 calendar days after the commencement date.

Within 30 calendar days of the QDR's submission of statements of interest (or, if multiple QDRs have given notice of intent to represent drivers of a particular Driver Coordinator, within 30 calendar days of the submission of statements of interest by all such QDRs), upon confirmation from either the City, a governmental entity or independent third party that the QDR has submitted verified statements from a majority of qualifying drivers and that no other QDR has submitted more verified statements, the Director will certify the QDR as the Exclusive Driver Representative (EDR) for that particular Driver Coordinator.

Upon such certification, the City will notify, by e-mail, the EDR and the Driver Coordinator of the EDR's status and the parties' obligations to meet and negotiate, and will provide public notice online. If the Director does not certify a QDR that has submitted statements of interest as an EDR, the City will notify, by e-mail, the QDR and the Driver Coordinator of this non-certification.

Challenging an EDR Certification or Non- Certification

Written objections to a QDR's certification as an EDR, or to a QDR's non-certification, along with any documentary support for those objections, may be submitted to the Director by

[3] The initial commencement date is January 17, 2017.

U.S. mail, personal delivery or e-mail within 10 calendar days of the certification or non-certification.

If such objections are filed, the Director will notify the QDRs that have submitted statements of interest, the Driver Coordinator, and the public of the nature of the objections via email and public online notice. Any responses to such objections must be filed in writing by U.S. mail, personal delivery or e-mail within 10 calendar days of the date of such notice.

1. Objections to an EDR's certification may be made on the grounds that the QDR did not demonstrate majority support, that another QDR demonstrated greater support and/or that there was fraud or coercion in obtaining the statements of interest. The party filing any such objections may submit written objections along with any documentary support.

2. Objections to a QDR's non-certification as an EDR may be made on the grounds that it did have majority support that was greater than any other QDR, that there was fraud or coercion in obtaining revocations of statements of interest, that the list of qualifying drivers did not comply with the SMC and/or that the Driver Coordinator violated the SMC in a manner that interfered with drivers' exercise of their rights. The QDR may submit written objections along with any documentary support.

At the Director's discretion, an in-person hearing may be convened to allow for live testimony on the allegations/appeals made. In the event of an objection to an EDR's certification or a QDR's non-certification, all applicable deadlines may be suspended at the Director's discretion. After the Director has issued a written ruling, the deadlines will resume per the schedule specified by the SMC. The Director will issue a written ruling on any objections within 30 calendar days of the deadline for filing written responses.

1. If after consideration of the objections, the Director concludes that the QDR did demonstrate majority support that was greater than the support for any other QDR, that fraud or coercion in obtaining the statements of interest did not occur or did not affect the outcome, that fraud or coercion in obtaining revocations of statements of interest did affect the outcome and/or that a Driver Coordinator's violation of the SMC interfered with drivers' exercise of rights in a manner that affected the outcome, the Director will issue a ruling upholding the QDR's certification as an EDR. The date the QDR's certification is upheld will be treated as the date to initiate subsequent processes, including collective negotiations.

   If the Director concludes that a Driver Coordinator's violation of the SMC interfered with drivers' exercise of rights but cannot determine whether that violation affected the outcome, the Director may establish a new period for the QDR to submit statements of interest.

2. If after consideration of the objections, the Director concludes that the QDR did not demonstrate majority support, that another QDR submitted more valid statements of interest and/or that fraud or coercion in obtaining the statements of interest affected the outcome, the Director will revoke the QDR's certification as an EDR. If the reason for revocation is that another QDR submitted more valid statements of interest, then the Director will certify that QDR as the EDR, and the process for challenging the new EDR certification will be made available, with the same applicable deadlines.