

January 28, 2013

Michael P. Spack, P.E., PTOE, FITE  
President  
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Dear Mr. Spack:

The campaign rules that I provided to you have been developed to provide a fair and even-handed process that applies to all candidates for ITE office, whether nominated or by petition. A version of these rules for the 2012 election is posted on the ITE website, [www.ite.org](http://www.ite.org), under the "About ITE" tab, within the "Elected Leadership Tools" section as the fourth bullet under "International" (<http://www.ite.org/elected/index.asp>). Also, the rules are and have been available for the asking; I provided them to you as an attachment to my letter of January 15, 2013 even though you had not asked for them. These rules are not new and were developed long before you sought to petition to become a candidate for Vice-President. I trust that now that you are aware of them, you will conduct yourself and your petition effort in compliance with them.

We have always required written petitions and will continue to do so for this election cycle. Our legal counsel indicates that we are not required to accept electronic signatures (opinion of counsel attached), nor are we changing the rules in the middle of an election cycle that started well before your stated interest in becoming part of it. Therefore, an online petition will not meet the requirements to become a petition candidate.

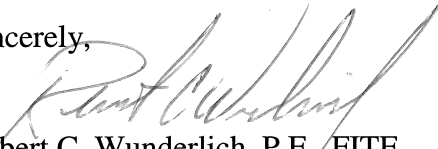
The Board Procedures clearly spell out the inappropriateness of the use of ITE community for campaigning in Section 8 of Campaign Conduct. That is why the post was removed.

One of our stated core values is collegiality demonstrated by a continuous commitment to collaboration and cooperative spirit among peers in an interdisciplinary global community. I certainly hope that you intend to petition in that spirit and, if successful in that effort, campaign that way.

Now that I have provided you with the campaign conduct rules and the requirements for petitioning, I have fulfilled my role as nominating committee chair. I would ask that you address any further correspondence to the ITE Executive Director, Mr. Thomas W. Brahms.

Finally, I strongly prefer to be addressed by my given name, which is Robert, and ask you to honor that preference if we do have the occasion to correspond or meet in the future.

Sincerely,



Robert C. Wunderlich, P.E., FITE  
Nominating Committee Chair  
encl..

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**ATTORNEY-CLIENT PRIVILEGE/CONFIDENTIAL**

**MEMORANDUM**

**TO:** ITE Executive Committee  
**FROM:** Heidi K. Abegg  
**SUBJECT:** Electronic signatures  
**DATE:** January 28, 2013

You have asked me for an opinion regarding the applicability of the Connecticut Uniform Electronic Transactions Act (CUETA) to ITE's petition process.

ITE was incorporated in Connecticut and therefore is governed by Connecticut law. CUETA governs all electronic transactions after 2002, including commercial, consumer, charitable, and governmental affairs.<sup>1</sup> The goal of CUETA is to validate the use of electronic transactions by giving electronic signatures and records the same legal effect as paper.

While CUETA gives electronic signatures the same force as paper transactions, it only applies where all parties involved agree to transact business electronically. Section 1-270(b). Businesses are not forced to transact business electronically and parties may not force others to do so. Section 1-270(a). Whether the parties agree to conduct a transaction by electronic means is determined from the context of the transaction and surrounding circumstances, including the parties' conduct. Section 1-270(b).

ITE's Constitution, Article V, Section 3, permits nominations by petition and sets out the requirements:

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<sup>1</sup> With one exception, which is not applicable here, CUETA supersedes the Electronic Signatures in Global and National Commerce Act, 15 USC 7002.

Additional nominations for President or Vice President may be made by petition signed by at least 2% of the members entitled to vote as of October 1<sup>st</sup> of the year preceding the election. The petitioners shall represent at least half of the Districts with not less than ten signatures from each and the petitioner shall not have greater than 30% of the signatures required from any one district. Each such petition shall be accompanied by the written consent of the nominee to run for the office nominated and must be received by the headquarters office by March 1<sup>st</sup> of the year of the election.

In previous attempts to nominate by petition, signatures have been submitted on paper. Indeed, the Constitution was drafted and adopted long before computers and the Internet. You have informed me that ITE has never permitted petitions to be submitted in any fashion other than on paper containing original signatures. You have also informed me that ITE has never indicated that an online petition, or electronic signatures, would be accepted. Moreover, Section 1-270(c) provides that a party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. Therefore, even if ITE has agreed to conduct other aspects of its business by electronic means, it may refuse to conduct the nomination by petition process by electronic means.

Based on the information you have provided about past precedent, it is my opinion that ITE has not agreed to conduct the nomination by petition process by electronic means. A petitioner cannot force ITE to conduct the nomination by petition process by electronic means.

In summary, ITE is not required to conduct the nomination by petition process by electronic means and does not appear to have agreed to conduct the process by electronic means.