

Executive Document

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Governor, Administration: Establishing a Revised Policy for Legislative Communications of Executive Branch Departments and Employees, Utah Amended Exec. Order No. 2018-1

Issued: August 4, 2018

EXECUTIVE ORDER AMENDING EXECUTIVE ORDER 2018-001

Establishing a Revised Policy for Legislative Communications of Executive Branch Departments and Employees

WHEREAS, Executive Branch departments and employees play a crucial role in the policy-making process by contributing information and subject-matter expertise;

WHEREAS, the Executive Branch has an interest in ensuring that such information and subject-matter expertise is provided to the Legislature in the most effective and efficient manner;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State do hereby order that the Executive Branch and all Executive Branch employees are subject to the following directions:

1. Application

a. This order applies to all Executive Branch department employees and replaces and supersedes Executive Order 2018-001 of March 5, 2018, and any prior executive order establishing a policy for legislative communications of Executive Branch departments and employees. Independently elected officers may adopt this policy. This order does not apply to any employee of the Legislature or Judiciary.

b. Each Executive Branch department shall amend its existing policy to be consistent with the directions set forth below.

2. Definitions

a. "Department" means a department of the Executive Branch and includes an institution of higher education, State Tax Commission, National Guard, and Board of Pardons and Parole.

b. "Division" means a division or other agency within an Executive Branch department.

c. "Executive director" means the head of a department or an equivalent position by any title and includes the president of an institution of higher

education or the president's designee.

d. "Legislative action" means a bill, resolution, amendment, veto override, or any other matter pending or proposed in either house of the Utah Legislature or a committee of the Utah Legislature during a General Session or Special Session of the Utah Legislature.

e. "Legislative communications" means the attempt by an employee of the State of Utah in the capacity of an employee of the State of Utah to influence, either directly or indirectly, by communicating with a legislator, the passage or defeat of legislative action; provided, however, that "Legislative Communications" does not include (i) requests to a legislator to sponsor legislation; (ii) communications between or within departments of the Executive Branch; (iii) testifying before a legislative body, including a legislative committee or task force; (iv) answering questions asked by a legislator; (v) communications with legislative staff; or (vi) communications required by law.

f. "State employee" means an individual employed by a department of the Executive Branch other than an executive director.

3. Legislative Communications

a. Official Positions. Departments may represent the Governor by taking official positions on legislative action. Divisions may not take a position on legislative action that is contrary to the position of the Governor or the department.

b. An executive director may engage in legislative communications without restriction at any time and for any reason.

c. An executive director may authorize one or more state employee(s) to engage in legislative communications for any purpose consistent with the interests of the department or division; provided, however, that an executive director shall not authorize more employees than reasonably necessary to accomplish such legislative communication.

4. Prohibition on Certain Other Communications. Except with the consent of the Governor or as provided in Section 5, no executive director or state employee may directly contact a non-governmental entity or individual for the sole purpose of requesting that such individual or entity advocate for or against the policy positions of a department or legislator on legislative action.

5. No Limitation on Free Speech. Nothing in this Executive Order should be interpreted as a limitation on an individual's right to free speech on the individual's own time and with non state resources; provided, however, that an individual acting pursuant to this Section 5 may not state or imply that he or she is representing the interests of the Governor or a department.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 4th day of August 2018.

(State Seal)

Gary R. Herbert

Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2018/001/AEO

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