

State of Utah
Office of the Lieutenant Governor



Spencer J. Cox
Lieutenant Governor

MEMORANDUM

DATE: April 3, 2020
FROM: Justin Lee, Director of Elections
SUBJECT: Governor's Executive Order Regarding Signature Gathering

This Memorandum provides background and guidance regarding Executive Order 2020-14, issued on April 3, 2020, by Governor Gary R. Herbert, suspending certain provisions of the Utah Election Code relating to the signature-gathering process for local referenda governed by Utah Code Title 20A, Chapter 7, Part 6, Local Referenda.

Background

Due to the impact of the novel coronavirus disease 2019 (COVID-19) and recommendations from national, state, and local authorities to limit physical contact, questions arose related to the appropriateness and practicality of the signature-gathering process prescribed in Utah Code Title 20A, Chapter 7, Part 6, Local Referenda.

In response to these concerns, Governor Herbert issued Executive Order 2020-12 on April 1, 2020, suspending statutory provisions in Utah Code Title 20A, Chapter 7, Part 6 that would require local referendum sponsors and interested voters to travel or have in-person interactions in conflict with the recommendations by national, state, and local authorities to slow the spread of COVID-19.

In response to questions asked about Executive Order 2020-12, Governor Herbert issued Executive Order 2020-14, which supersedes Executive Order 2020-12, in order to provide clarity regarding the signature gathering process for local referenda during the COVID-19 pandemic.

Guidance to Referendum Sponsors and Interested Voters

Executive Order 2020-14 (the “order”) has suspended the statutory requirements found in Utah Code Title 20A, Chapter 7, Part 6, that require or imply a requirement that a referendum packet, including any signature sheets and a verification page, be attached or bound physically, and that require or imply a requirement that a signature sheet be signed in the presence of and verified by an individual as provided in Utah Code § 20A-7-605(2).

Accordingly, the following actions are now permitted:

- (1) A referendum sponsor may send or make available an electronic copy of the referendum packet to any interested voter. The sponsor is not required to furnish a verification page to the interested voter; however, the sponsor still must furnish a copy of the law that is the subject of the referendum and the informational packet required by Utah Code § 20A-7-604(4)(d).
- (2) An interested voter may print and physically sign the signature sheet.
- (3) The interested voter may return to the sponsor via regular mail, fax, or email, a copy of the referendum packet, including the signature sheet bearing his or her handwritten and the law that is the subject of the referendum.

Q. Does the sponsor still have to include a copy of the law that is the subject of the referendum and the informational pamphlet with the signature sheet?

A. Yes. Nothing in the order alters the requirement that a referendum packet circulated to voters must include a copy of the law that is the subject of the referendum and the informational pamphlet.

Any packet circulated without a copy of the law that is the subject of the referendum or the informational pamphlet is unlawful under current law and under the order.

Q. Does the sponsor still have to provide a clear, legible image of all signatures on the signature packet to the county clerk, via email or other electronic means, within seven days after the day on which the first individual signs the signature packet?

A. Yes. Nothing in the order alters the requirement in Utah Code § 20A-7-605(4), requiring a sponsor to provide a clear, legible image of all signatures on the signature packet to the county clerk, via email or other electronic means, within seven days after the day on which the first individual signs the signature packet.

Q. Does the signature need to be handwritten?

A. Yes. The forms may be transmitted electronically, but the law requires a handwritten signature. In other words, a voter must physically put pen to paper when signing the signature sheet.

Q. Does someone still have to witness the person sign the signature sheet?

A. No. Because the requirement to have a circulator witness an interested voter sign the petition has been suspended, an interested voter may simply sign the signature page and return it to the sponsors.

Q. Does the voter have to return all of the packet materials or only the signature sheet?

A. The voter needs to return a full copy of the referendum packet, which includes the signed signature page and a copy of the law that is the subject of the referendum. The voter does not have to return a copy of the informational pamphlet.

Q. May the pages be returned to the sponsor electronically?

A. Yes. The referendum packet, which includes the pages bearing the handwritten signature and the copy of the law that is the subject of the referendum, may be scanned and emailed, or faxed, back to the sponsors.

Q. Should voters send signed pages directly to the County Clerk?

A. No. The referendum packet, including the signed signature pages, must be returned to and collected by the sponsor before being submitted to the county clerk.

Q. Do county clerks check every single signature?

A. Yes. County clerks check every single signature against the voter registration database to ensure the person signing the petition is eligible to sign and the signature is substantially similar to the signature on file. Particularly now that the circulator-witness requirement has been temporarily suspended, signature verification is indispensable to allowing county clerks to discharge their duty to preserve the integrity of elections.

Q. May a voter electronically request to have his or her signature removed from a petition?

A. Yes. The law already allows a voter who has signed a petition to request to have his or her signature removed from the petition by submitting a statement requesting signature removal to the county clerk by regular mail, fax, or email.

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