

Keven J. Stratton proposes the following substitute bill:

Federal Guidance Letter Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

House Sponsor:

LONG TITLE

General Description:

This bill modifies provisions related to federal guidance letters.

Highlighted Provisions:

This bill:

- defines terms;
- extends requirements for publishing and reporting federal guidance letters to certain education entities;
- requires a state agency that receives a federal guidance letter to submit an electronic report to the Federalism Commission containing information and recommendations regarding the impacts and scope of the federal guidance letter;
- authorizes a state agency to publish federal guidance letters received prior to the date on which the requirements for publishing and reporting federal guidance letters first took effect;
- requires the Federalism Commission to report annually to the Legislative Management Committee regarding federal guidance letters reported by state agencies; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-303 (Effective 05/06/26) (Repealed 07/01/28), as last amended by Laws of Utah 2025, First Special Session, Chapter 9

63G-16-301 (Effective 05/06/26), as enacted by Laws of Utah 2025, Chapter 335

29 **63G-16-302 (Effective 05/06/26)**, as enacted by Laws of Utah 2025, Chapter 335

30
31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **63C-4a-303** is amended to read:

33 **63C-4a-303 (Effective 05/06/26) (Repealed 07/01/28). Federalism Commission to**
34 **evaluate federal law -- Curriculum on federalism -- Environment discussions --**
35 **Coordination with other entities in relation to federalism duties.**

36 (1)(a) In accordance with Section 63C-4a-304, the commission may evaluate a federal
37 law:

- 38 (i) as agreed by a majority of the commission;
- 39 (ii) submitted to the commission by a council member; or
- 40 (iii) reported to the commission in accordance with Subsection (1)(b).

41 (b)(i) To assist the commission in the evaluation of federal law as required in this
42 section and Section 63C-4a-304, the commission may contract with a third party
43 that is a Utah institution of higher education to monitor federal law for possible
44 implications on the principles of federalism.

45 (ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i)
46 shall:

47 (A) monitor federal law for possible implications on the principles of federalism
48 and state sovereignty; and

49 (B) report to the commission any law or action by the federal government that
50 may implicate the principles of federalism or state sovereignty.

51 (c)(i) As used in this Subsection (1)(c), "interim committee" means the same as that
52 term is defined in Section 36-12-1.

53 (ii) The commission shall provide an annual report to each interim committee
54 concerning any law or action by the federal government that implicates the
55 principles of federalism or state sovereignty.

56 (iii) The commission may notify the appropriate interim committee of any law or
57 action by the federal government that implicates the principles of federalism or
58 state sovereignty.

59 (2) The commission may request information regarding a federal law under evaluation from
60 a United States senator or representative elected from the state.

61 (3) If the commission finds that a federal law is not authorized by the United States
62 Constitution or violates the principle of federalism as described in Subsection

63C-4a-304(2), a commission cochair or the commission may:

- (a) request from a United States senator or representative elected from the state:
 - (i) information about the federal law; or
 - (ii) assistance in communicating with a federal governmental entity regarding the federal law;
- (b)(i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and
- (ii) request a response by a specific date to the evaluation from the federal governmental entity;
- (c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States ~~Senator~~ senator or ~~Representative~~ representative elected from the state to discuss the evaluation of federal law and any possible remedy; or
- (d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's [-]evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

- (a) a federal law that the commission evaluates under Subsection (1);
- (b) an action taken by a cochair of the commission or the commission under Subsection (3);
- (c) any coordination undertaken with another state under Section 63C-4a-305; and
- (d) any response received from a federal government entity that was requested under Subsection (3).

(7)(a) The commission shall develop curriculum for a seminar on the principles of federalism.

(b) The curriculum under Subsection (7)(a) shall be available to the general public and include:

- (i) fundamental principles of federalism;
- (ii) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

- 97 (iii) the history and practical implementation of the Tenth Amendment to the United
98 States Constitution;
- 99 (iv) the authority and limits on the authority of the federal government as found in the
100 United States Constitution;
- 101 (v) the relationship between the state and federal governments;
- 102 (vi) methods of evaluating a federal law in the context of the principles of federalism;
- 103 (vii) how and when challenges should be made to a federal law or regulation on the
104 basis of federalism;
- 105 (viii) the separate and independent powers of the state that serve as a check on the
106 federal government;
- 107 (ix) first amendment rights and freedoms contained therein; and
- 108 (x) any other issues relating to federalism the commission considers necessary.
- 109 (8) The commission may apply for and receive grants, and receive private donations to
110 assist in funding the creation, enhancement, and dissemination of the curriculum.
- 111 (9) The commission shall submit a report on or before November 30 of each year to the
112 Government Operations Interim Committee and the Natural Resources, Agriculture, and
113 Environment Interim Committee that:
- 114 (a) describes any action taken by the commission under Section 63C-4a-303; and
- 115 (b) includes any proposed legislation the commission recommends.
- 116 (10) The commission shall comply with Section 19-1-110 in discussions with the
117 Department of Environmental Quality on issues related to the environment or the
118 functioning of the Department of Environmental Quality.
- 119 (11) The commission shall:
- 120 (a) coordinate with and make recommendations to the center concerning the center's
121 federalism-related duties under Section 53H-4-703, including:
- 122 (i) the development of the federalism education and training program under
123 Subsection 53H-4-703(1); and
- 124 (ii) the scope and objectives of:
- 125 (A) the annual federalism conference organized under Subsection 53H-4-703(2);
- 126 (B) the study conducted under Subsection 53H-4-703(3); and
- 127 (C) the center's coordination efforts under Subsection 53H-4-703(4);
- 128 (b) coordinate with and make recommendations to the institute regarding the institute's
129 federalism-related duties under Section 53H-4-704; and
- 130 (c) report annually to the Legislative Management Committee regarding:

- (i) the center's progress in fulfilling the requirements of Section 53H-4-703; ~~[and]~~
- (ii) the institute's progress in fulfilling the requirements of Section 53H-4-704~~[-]~~ ; and
- (iii) federal guidance letters received by state agencies and reported to the commission in accordance with Section 63G-16-302.

- (12) Each executive branch agency shall, at the request of the commission, designate a contact person to coordinate with the commission regarding the federalism education and training program developed under Section 53H-4-703 for the purposes of:
- (a) determining the extent of federal jurisdiction in the agency's resource sphere;
 - (b) determining whether federal action exceeds the federal government's jurisdictional authority;
 - (c) assessing what actions the agency may take ~~[in the event]~~ if that federal action exceeds the federal government's jurisdictional authority; and
 - (d) assessing how actions described in Subsection (12)(c) may better enable the agency to use the agency's best judgment in serving the people of Utah.

Section 2. Section **63G-16-301** is amended to read:

63G-16-301 (Effective 05/06/26). Definitions.

As used in this part:

- (1) "Applicable federal agency" means the federal agency that issued a federal guidance letter.
- (2) "Commission" means the Federalism Commission created in Section 63C-4a-302.
- (3) "Education entity" means:
 - (a) the State Board of Education;
 - (b) the Utah Board of Higher Education;
 - (c) the State Charter School Board created in Section 53G-5-201;
 - (d) a local school board described in Title 53G, Chapter 4, School Districts; or
 - (e) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.
- ~~[(2)]~~ (4) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States government.
- ~~[(3)]~~ (5)(a) "Federal guidance letter" means a written statement by a federal agency, regardless of format, that:
 - (i) clarifies or provides instruction on:
 - (A) the federal agency's interpretation of a federal law; or
 - (B) the federal agency's policies for administering a federal law; and

(ii) is nonbinding and of general applicability.

(b) "Federal guidance letter" does not include:

(i) a written communication between a federal agency and a state agency regarding a specific entity;

(ii) a peer-to-peer communication; or

(iii) a written communication between a federal agency and the State Tax Commission containing guidance related to the protection, storage, or safeguarding of confidential information.

~~[(4)]~~ (6) "Federal law" means:

(a) a statute passed by the United States Congress; or

(b) a rule or regulation adopted by a federal agency.

~~[(5)]~~ (7) "State agency" means:

(a) a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government~~[-]~~ ; or

(b) an education entity.

Section 3. Section **63G-16-302** is amended to read:

63G-16-302 (Effective 05/06/26). Federal guidance letters received by state agencies -- Publication and reporting requirements -- Standards for information published on state agency website -- Authority to publish previously received letters.

(1) A state agency shall publish and report federal guidance letters received by the state agency in accordance with this section.

(2)(a) ~~[Beginning July 1, 2025]~~ Except as provided in Subsection (2)(b), a state agency that receives a federal guidance letter on or after July 1, 2025, shall:

(i) publish the federal guidance letter on:

(A) the state agency's public website; and

(B) the Utah Open Data Portal Website created in Section 63A-16-107; and

(ii) ~~[transmit a copy of the federal guidance letter to:]~~ submit an electronic report to the commission containing the information specified in Subsection (2)(c).

~~[(A) the Legislative Management Committee; and]~~

~~[(B) the chairs of the Legislature's Federalism Commission.]~~

(b) For a state agency that is an education entity, the requirements of Subsection (2)(a) apply to federal guidance letters received on or after May 6, 2026.

(c) The report described in Subsection (2)(a)(ii) shall include:

(i) a copy of or an electronic link to the federal guidance letter received by the state

- 199 agency;
- 200 (ii) a brief description of:
- 201 (A) the purpose of the federal guidance letter;
- 202 (B) any fiscal or administrative impacts on the state agency resulting from the
- 203 federal guidance letter, whether actualized or potential; and
- 204 (C) any recommendations as to whether the federal guidance letter violates the
- 205 principle of federalism as set forth in Subsection 63C-4a-304(2); and
- 206 (iii) any other information required by the commission.
- 207 ~~[(b)]~~ (d) A state agency shall comply with the requirements of Subsection (2)(a) within
- 208 15 days from the date on which the state agency receives the federal guidance letter.
- 209 (3)(a) This Subsection (3) applies to a state agency that:
- 210 (i) publishes and reports a federal guidance letter in accordance with Subsection (2);
- 211 and
- 212 (ii) receives a written communication from the applicable federal agency indicating
- 213 that the federal guidance letter has been rescinded.
- 214 (b) A state agency described in Subsection (3)(a) shall:
- 215 (i) publish the following documents on the websites described in Subsection (2)(a)(i):
- 216 (A) the written communication indicating the federal guidance letter's rescission;
- 217 and
- 218 (B) a disclaimer, linked to the federal guidance letter, notifying the public of the
- 219 federal guidance letter's rescission; and
- 220 (ii) transmit to the ~~[entities described in Subsection (2)(a)(ii)]~~ commission a copy of
- 221 the written communication indicating the federal guidance letter's rescission.
- 222 (c) A state agency shall comply with the requirements of Subsection (3)(b) within 15
- 223 days from the date on which the state agency receives the written communication
- 224 indicating the federal guidance letter's rescission.
- 225 (4) A state agency shall ensure that any information published on the state agency's public
- 226 website under this section is available:
- 227 (a) on a permanent basis;
- 228 (b) in a user-friendly manner; and
- 229 (c) via a link from the main page of the website.
- 230 (5) A state agency may publish, on a website described in Subsection (2)(a)(i), any federal
- 231 guidance letters received prior to:
- 232 (a) July 1, 2025, for a state agency that is not an education entity; or

233 (b) May 6, 2026, for a state agency that is an education entity.

234 Section 4. **Effective Date.**

235 This bill takes effect on May 6, 2026.