



State of Utah

GARY HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Public Safety
Jess L. Anderson
Commissioner

February 20, 2019

Kevin J. Worthen, President
Brigham Young University
270 Clyde Building
Provo, Utah 84602

Reference: Notice of Intent to Decertify Brigham Young University Police

Dear President Worthen,

This letter is a Notice of Agency Action to decertify the Brigham Young University Police Department (BYUPD) issued pursuant to my authority as Commissioner of the Department of Public Safety under Utah Administrative Code Rule 698-4-.5.

Authority for decertification is as follows:

1. Utah Administrative Code Rule R698-4-5(1) provides that “[c]ertification of the law enforcement agency of a private college or university may be denied or revoked for failure to meet the certification criteria set forth in this rule.”
2. Utah Administrative Code Rule R698-4-4 provides that “[t]he following criteria must be met in order for the law enforcement agency of a private college or university to be eligible for certification: (4) The law enforcement agency's officers shall be subject to all of the requirements of Title 53, Chapter 6, Part 2.”

The specific grounds for decertification are as follows:

1. The Brigham Young University Police Department (BYUPD) failed to comply with the certification criteria set forth in Utah Administrative Code Rule R698-4-5: specifically, between 2016 and April 2018, BYUPD failed to conduct an internal investigation into specific allegations of misconduct by a BYUPD officer and failed to report any findings found to be true to Peace Officer Standards and Training (POST) as required by Utah Code Ann. § 53-6-211(6). Utah Code Ann. Title 53, Chapter 6, Part 2 provides in section 53-6-211(6) that “[a] chief, sheriff, or administrative officer of a law enforcement agency who is made aware of an allegation against a peace officer employed by that agency that involves conduct in violation of Subsection (1) shall

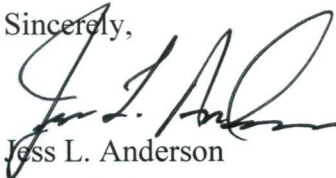
investigate the allegation and report to the division if the allegation if it is found to be true.” Subsection (1) of Utah Code Ann. § 53-6-211 provides that “[t]he council has authority to suspend or revoke the certification of a peace officer, if the peace officer: (d) engages in conduct which is a state or federal criminal offense, but not including a traffic offense that is a class C misdemeanor or infraction.”

2. BYUPD failed to comply with the certification criteria set forth in Utah Administrative Code Rule R698-4-5: specifically, BYUPD failed to comply with a subpoena issued by POST Investigations on June 28, 2018 pursuant to a POST investigation into allegations of misconduct of a BYUPD officer, as required by Utah Code Ann. § 53-6-210. Utah Code Ann. § 53-6-210(1) provides that “[f]or investigations by the division and for certification hearings or other testimony before the council, the division may ... require by subpoena duces tecum the production of relevant papers, records, or other documents or information, whether filed or kept in original form, or electronically stored or recorded. (2) A person who willfully disobeys a properly served subpoena issued by the division is guilty of a class B misdemeanor.”

Pursuant to Utah Code Ann. § 63G-4-204 and Utah Administrative Code Rule R698-4-5(2), BYUPD must file a responsive pleading within thirty (30) days of the mailing date of this Notice of Agency Action. Failure to file a responsive pleading may result in the entry of an order of default against BYUPD. Pursuant to Utah Administrative Code Rules R698-4-5(2) and (3), BYUPD may request a hearing, which shall be designated as a formal adjudicative proceeding and shall be conducted by the Commissioner of the Department of Public Safety according to the provisions of Utah Code Ann. §§ 63G-4-204 through 63G-4-208. A hearing, if requested, will be held at the Division of Peace Officer Standards and Training located at 410 West 9800 South, Sandy, Utah, 84070, Phone (801) 256-2300. Failure to attend a scheduled hearing could result in the entry of an order of default against BYUPD. The hearing shall be open to all parties.

No hearing will be conducted if BYUPD chooses to accept, rather than contest, decertification and BYUPD will continue to be certified as a law enforcement agency until September 1, 2019. This additional time period is provided so that Brigham Young University (BYU) may identify and contract with a local agency or agencies for law enforcement services on the BYU campus after decertification of BYUPD.

Sincerely,



Jess L. Anderson
Commissioner



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Cc:

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