

JOINT MEMORANDUM OF UNDERSTANDING

This JOINT MEMORANDUM OF UNDERSTANDING (“Memorandum”) is made and entered into by and between the Office of the Governor of Missouri and the Office of the Attorney General of Missouri (the “Parties”). Now, therefore, the Parties agree as follows:

1. **Defined Terms.**

a. **Content.** “Content” means all information sent from an Office-Branded Account, including posts, comments, responses, messages, and the usernames of all Social Media accounts that “follow” or “like” an Office-Branded Account, or that are “followed by” or “liked by” an Office-Branded Account.

b. **Office-Branded Accounts.** “Office-Branded Accounts” means Social Media accounts that are held out to the public as representing the Governor, the Office of the Governor, or the State of Missouri and that are operated in whole or in part using government resources (staff time, equipment, etc.).

c. **Personal Social Media Accounts.** “Personal Social Media Accounts” means any Social Media account that is not an Office-Branded Account, including, but not limited to, individually-owned or campaign-owned accounts.

d. **Social Media.** “Social Media” means any user-driven form of internet-based communication used to share information and interact with a public audience, particularly social networks like Twitter, Facebook, YouTube, and Instagram.

2. **Non-Admission.** No actions taken by the Parties either previously or in connection with this Agreement shall be deemed or construed to be an admission of the truth or falsity of any allegation made against the Office of the Governor, or an acknowledgment of any liability or wrongdoing against any person for any other claim, demand, or action.

3. **Resolution Point.** The Attorney General has investigated an allegation that the Office of the Governor did not produce social media content in response to a Sunshine Law request. Pursuant to this Memorandum, and in consideration of concluding the investigation and fostering best practices for communications that concern the public, the Office of the Governor will observe the Social Media best practices set forth in Paragraph 4(a)-(g) of this Memorandum.

4. **Best Practices.** The Office of the Governor shall observe the following best practices:

a. **Users.** Establish and maintain a policy that lists all state employees who are authorized to create, access, or use an Office-Branded Account.

i. All additions to this list shall be authorized by a designated authority.

- ii. Usernames and passwords for Office-Branded Accounts should only be disclosed to authorized users.
- b. **Content.** Establish and maintain a policy that governs when Content may be removed from the page of an Office-Branded Account and when public users may be blocked by an Office-Branded Account.
 - i. No Content shall be removed, and no public user shall be blocked, unless posted content contains profanity, obscenity, vulgarity, nudity, threats, harassment, defamation, advertising, or spam.
 - ii. Upon a change of administration, Content from a previous administration may be removed from an Office-Branded Account, provided it is first captured and retained.
 - iii. The Office of the Governor shall keep a list of all blocked users.
 - iv. State employees using an Office-Branded Account are acting in an official capacity, and must follow the same professional and ethical guidelines applicable in other contexts.
 - v. State employees should not disclose sensitive, privileged, or confidential information on Social Media.
- c. **Capture and Retention.** Establish and maintain a policy declaring that all Content shall be treated as a government “record” under § 109.210(5), RSMo.
 - i. All Content from an Office-Branded Account shall be regularly captured in a searchable format, consistent with existing protocols for government records.
 - ii. All captured Content that is subject to retention shall be retained, consistent with existing retention schedules for government correspondence.
 - iii. Content that presents a security threat is non-record material, and does not need to be captured or retained.
- d. **Sunshine Law.** Establish and maintain a policy declaring that all captured Content that is subject to retention shall be subject to the Sunshine Law in accordance with the rules and exceptions established by Missouri law.
- e. **Privacy.** Establish and maintain a policy declaring that Content that inappropriately discloses personal identifying information may be removed or redacted consistent with existing privacy policies and the Sunshine Law.

f. **Personal Accounts.** Establish and maintain a policy declaring that Personal Social Media Accounts should not be used to conduct State business.

g. **Use of State Employees.** Establish and maintain a policy declaring that the best practice is that state resources should not be used for Personal Social Media Accounts. This does not govern limited personal use that does not interfere with official business.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding in their respective capacities as described below.

OFFICE OF THE GOVERNOR OF MISSOURI



Signature

Christopher Limbaugh

Printed Name

General Counsel

Title

May 16, 2019

Date

OFFICE OF THE ATTORNEY GENERAL OF MISSOURI



Signature

Christopher R. Wray

Printed Name

Chief of Staff

Title

May 16, 2019

Date