



MONTANA STATE SENATE

Senator Andrea Olsen

January 6, 2025

Dear Chairman Usher and Members of the Senate Judiciary Committee:

I am writing to object to the agenda item that requests the State Bar to attend our committee meeting on January 7 to respond to the December 23, 2024 letter signed by several Senate members. This letter demanded an apology from the State Bar for words uttered by one of its members. This “Senate” demand for forced “speech” and “punishment” is inappropriate.

First, a person has a constitutional right to free speech, and we just today, swore an oath to uphold the Constitution. It is even more important that we, as government and as representatives of the people, protect the free speech rights of those who are critical of government regardless of whether we appreciate their concerns and/or are offended by their language. Our infringement on a person’s right to free speech, particularly when we call in an association to punish them, is also a violation of the right of association. And probably most troubling is the effect this might have on whether members of the public feel safe in bringing their concerns to us formally. It is a very slippery slope when eliminating a fundamental freedom – to share who we each are by sharing our thoughts and concerns. Without the freedom to criticize government, we risk our democracy.

Second, as broad as our power of inquiry is, it is not unlimited. The power of investigation may properly be employed **only “in aid of the legislative function.”** See MCA 5-5-106(2). There is no legislative function described in the letter at issue. The conduct of the attorney at issue is protected by the constitutional right to free speech. There is no legitimate legislative authority to meddle in the affairs of a nongovernmental association as we might with state institutions or public agencies. See MCA 5-5-106(2)(c). The law requires that even in using investigative power, we must protect the rights of all persons. See MCA 5-5-106(3).

Freedom to speak one’s mind is critical to protecting participation, truth, autonomy, and democracy. Protecting a person’s right to free speech is our responsibility as Senators. Our constituents sent us here to pass bills that fix problems, pass a budget, and defend the constitution as we said in our oath. We are deeply disturbed by this scheduled attack on freedom of speech.

Sincerely,

Senator Andrea Olsen

Senator Laura Smith

Senator Cora Neumann

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