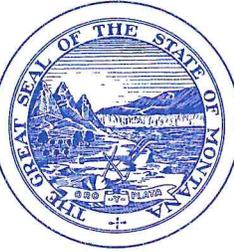


COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

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March 4, 2026

Ross Fitzgerald
4025 Fox Hollow Dr.
Helena, MT 59602

Subject: Complaint received March 2, 2026; Fitzgerald v. AFP-Montana,
COPP-2026-CFP-REJ-003

Ross,

I write in response to your complaint, received by this Office on March 2, 2026. I am returning your original complaint with this letter because the facts and circumstances presented are not violations of Montana election law subject to my authorities as Montana's Commissioner of Political Practices.

As Commissioner of Political Practices (COPP), my proper jurisdiction for consideration and potential enforcement of election law is limited to MCA Title 13, Chapters 35 and 37. Each statute you allege to have been violated - MCA's §§ 13-37-225, 226, and 227- fall under my jurisdiction. However, as I explain below, the specific materials referenced in the submitted complaint do not qualify as election communications, electioneering communications, or independent expenditures subject to reporting and disclosure.

MCA § 13-1-101(18)(a) defines the term "Election communication" as a form of communication "to support or oppose a candidate or ballot issue", including both "a paid advertisement broadcast over radio, television, cable, or satellite" (a)(i) and "paid placement of content on the internet or other electronic communication network". Independent expenditures are similarly defined as "an expenditure for an election communication to support or oppose a candidate or ballot issue made at any time that is not coordinated with a candidate or ballot issue committee", MCA § 13-1-101(31). The specific candidate endorsement/s made by AFP dated February 8 (pages 4-5) and February 11 (pages 6-7) are organic (unpaid) posts made by the organization to social media. While these posts do support or oppose specific candidates, the "paid" component required to consider them reportable election communication/s or independent expenditure is simply absent. While future use or distribution via other mediums may require different analysis, as currently presented I cannot conclude these candidate endorsement posts to be paid election communications subject to reporting or disclosure.

MCA § 13-1-101(22)(a) in turn defines "electioneering communications" as:

(a) "Electioneering communication" means "a paid communication that is publicly distributed by radio, television, cable, satellite, internet website, newspaper,

periodical, billboard, mail, or any other distribution of printed materials, that is made within 60 days of the initiation of voting in an election, that does not support or oppose a candidate or ballot issue, that can be received by more than 100 recipients in the district voting on the candidate or ballot issue, and that:

- (i) refers to one or more clearly identified candidates in that election;
- (ii) depicts the name, image, likeness, or voice of one or more clearly identified candidates in that election; or
- (iii) refers to a political party, ballot issue, or other question submitted to the voters in that election.

Each remaining material would be appropriately considered under the lens of an electioneering communication rather than an election communication or independent expenditure because while each specifically names or depicts declared candidate/s seeking election to public office in Montana, they do so without supporting or opposing those candidates directly.¹ Ultimately the materials cannot be considered electioneering communications because they were not “made within 60 days of the initiation of voting in” Montana’s June 2, 2026 primary election. Montana’s electioneering period prior to the primary election will begin on March 9, 2026, 60 days prior to when ballots are mailed to electors on the absentee list on May 8, 2026.² MCA §§ 13-13-205 and 214, Administrative Rules of Montana (ARM) 44.11.605. I cannot consider material financed and distributed prior to March 9, 2026, to be electioneering communications subject to reporting and disclosure with COPP, even if all other components of the relevant definition are met, as the material precedes the necessary “60 days prior to the initiation of voting” component.

Additionally, it is noteworthy that if I did determine each material to be reportable election or electioneering communications- which to re-iterate, I cannot- the proper time for reporting all but one of the materials provided, has not yet occurred. All contributions and expenditures occurring between January 1, 2026, and March 25, 2026, would be appropriately disclosed by political committees on a committee finance report due on March 30, 2026, pursuant to MCA §§ 13-37-226(2)(b) and 228. I obviously cannot find a political committee to be in violation of reporting and disclosure requirements prior to the applicable reporting deadline.

I appreciate you contacting our office and your involvement in Montana elections. However, in this matter the law requires that I return the submitted complaint to you. Please don’t hesitate to reach out with any further questions or concerns.

Regards,



Chris J. Gallus
Commissioner of Political Practices

¹ “Support or oppose” are themselves defined in MCA 13-1-101(63). See my return in the matter of *Beley v. Jacobsen*, COPP-2026-CFP-REJ-001 for specific discussion.

² https://sosmt.gov/wp-admin/admin-ajax.php?juwpfisadmin=false&action=wpfd&task=file.download&wpfd_category_id=27&wpfd_file_id=72177&token=6f7af6195f33954ee91f868f73055133&preview=1