

Institute for
Constitutional Advocacy and Protection

GEORGETOWN LAW

Randy McNally
Lieutenant Governor
Cordell Hull Building, Suite 700
425 Rep. John Lewis Way North
Nashville, TN 37243

July 8, 2026

Russell Humphrey
Chief Clerk of the Senate
State Capitol, 2nd Floor
Nashville, TN 37243

Via Email

Re: Punishment of Senator Charlane Oliver

Dear Lieutenant Governor McNally and Chief Clerk Humphrey:

We are lawyers representing Senator Charlane Oliver. We write in response to events that occurred on the Senate Floor on May 7, 2026, and to Lieutenant Governor McNally's letter to Senator Oliver dated May 27, 2026.

During the special legislative session called by Governor Bill Lee to change Tennessee's congressional districts on the eve of the 2026 primary election, Senator Oliver took a stand against rigging the state's map to silence Black voters. In her speech on the floor, Senator Oliver denounced the gerrymandered map as an affront to "descendants of people who were beaten on bridges, jailed in courthouses, murdered in churches, not for committing crimes, but for trying to vote." Before Senator Oliver could finish her speech, Lieutenant Governor McNally cut it short, and Chief Clerk Humphrey turned off Senator Oliver's microphone as she attempted to finish her remarks. Refusing to be silenced, Senator Oliver then stood on her desk, unfurled a banner that read "No Jim Crow 2.0," and sang "Lift Every Voice and Sing," known as the Black National Anthem.

In response, Chief Clerk Humphrey, along with the Sergeant-at-Arms, seized the banner and refused to count Senator Oliver's vote, even though she attempted twice to vote from her desk as instructed. By his letter of May 27, Lieutenant Governor McNally added further punishments. The letter denies Senator Oliver per diem for any day when the General Assembly is not in regular session or when she is not attending a committee meeting, denies her reimbursement for out-of-state travel to

legislative conferences, and removes her from the Senate Government Operations Committee—one of the few legislative committees that meet throughout the year.

The refusal to count Senator Oliver's vote and the additional punishments imposed in the Lieutenant Governor's letter are unlawful. The letter accuses Senator Oliver of failing to comply with Senate Rules, but it fails to identify any specific rule that she allegedly broke. In any event, these punishments violate both the Tennessee and United States Constitutions. They violate the state Constitution because they were not imposed by the full Senate as dictated by Article II, Section 12. And they violate the federal Constitution in multiple respects, both by retaliating against Senator Oliver for her First Amendment-protected speech and by depriving her constituents of equal representation in the Legislature.

Senator Oliver accordingly requests amendment of the legislative record to reflect her vote against the redistricting bill on May 7, 2026, and rescission of the further punitive measures against her outlined in the Lieutenant Governor's letter. Most urgently, Senator Oliver requests that her right to receive travel reimbursement be restored for the National Conference of State Legislatures (NCSL) Legislative Summit in Chicago, Illinois, from July 27-29. The NCSL Legislative Summit is the one conference that nearly every state legislator in the country attends, and attendance is critical for Senator Oliver to do her job and serve her constituents. If Senator Oliver's punishments are not promptly revoked, she will consider any and all avenues for seeking legal redress.

The punishments imposed are inconsistent with the Senate's Rules of Order and the Tennessee Constitution.

Lieutenant Governor McNally claims that Senator Oliver's actions violated the Senate Rules regarding order and decorum. But he fails to identify any rule that she allegedly broke. Moreover, the Lieutenant Governor is not empowered, by the Senate Rules or the Tennessee Constitution, to issue the kinds of penalties set forth in his letter in his role as Speaker of the Senate. Instead, the Lieutenant Governor's authorities to maintain order and decorum are narrowly limited, and any retrospective disciplinary measures must be undertaken by the Senate as a whole.

Although the Senate Rules allow the Speaker to preserve order and decorum, they permit him to do so only through a set of carefully circumscribed actions designed to ensure contemporaneous procedural control over the chamber. *See* Senate Rules 2, 7, and 15. In the moment, the Speaker may address points of order, decide questions of order, or clear the chamber in response to disturbances or disorderly conduct. But nothing in the Rules allows the Speaker to later impose retrospective punishments to censure his colleagues for purported failures to maintain order and decorum.

Under the Tennessee Constitution, any such censures or disciplinary measures are instead the prerogative of the Senate acting as a whole. Article II, Section 12 expressly empowers each House of the General Assembly to "punish its members for disorderly behavior." It does not contemplate a unilateral assumption of that authority by the Speaker. The punishments imposed on Senator Oliver thus violate the state Constitution.

The punishments imposed violate Senator Oliver's First Amendment rights.

Senator Oliver engaged in First Amendment-protected speech when she protested the Tennessee redistricting bill. “The freedom of speech ... guaranteed by the Constitution embraces at the least the liberty to discuss publicly and truthfully all matters of public concern without ... fear of subsequent punishment.” *Thornhill v. State of Alabama*, 310 U.S. 88, 101-02 (1940). First Amendment protections are at their “zenith” when applied to “core political speech,” *Meyer v. Grant*, 486 U.S. 414, 422, 425 (1988), such as Senator Oliver’s speech in support of Black voting rights. Senator Oliver’s speech is no less protected because she is an elected official. “The manifest function of the First Amendment in a representative government requires that legislators be given the widest latitude to express their views on issues of policy.” *Bond v. Floyd*, 385 U.S. 116, 135-36 (1966).

The punishments imposed impermissibly retaliate against Senator Oliver for that protected speech. “Official reprisal for protected speech ‘offends the Constitution because it threatens to inhibit exercise of the protected right,’ and the law is settled that as a general matter the First Amendment prohibits government officials from subjecting an individual to retaliatory actions ... for speaking out.” *Hartman v. Moore*, 547 U.S. 250, 256 (2006) (quoting *Crawford-El v. Britton*, 523 U.S. 574, 588 n.10, 592 (1998)). While a mere “verbal censure” from a legislative body against one of its members is not an adverse action for purposes of the First Amendment, punishment that “prevent[s]” a legislator from “doing h[er] job” or “den[ies] h[er] any privilege of office” constitutes such an action. See *Houston Cmty. Coll. Sys. v. Wilson*, 595 U.S. 468, 479 (2022).

The punishments imposed on Senator Oliver do just that. Most directly, Lieutenant Governor McNally and Chief Clerk Humphrey prevented Senator Oliver from doing her job by refusing to let her vote on legislation of utmost importance to her constituents. In imposing further penalties afterward, Lieutenant Governor McNally likewise prevented her from doing her job and denied her the privileges of office. When combined, those punishments—removing Senator Oliver from the Senate Government Operations Committee, refusing her per diem for legislative work when the General Assembly is not in regular session, and denying her travel reimbursement—substantially reduce her overall compensation to a level far lower than that of her colleagues and severely hinder her ability to represent her constituents effectively. She has already canceled plans to attend several legislative conferences scheduled for 2026, declined invitations from constituents for events in her district, and moved other constituent meetings online. As time moves on, and the financial strain mounts, she may need to reduce constituent services even further. Each of these adverse actions was taken in retaliation for her protected, core political speech and is therefore unconstitutional.

The punishments imposed violate the Equal Protection Clause and the Guarantee Clause by depriving Senator Oliver's constituents of equal representation.

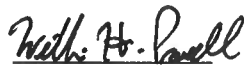
“[T]he distinguishing feature” of the republican form of government “is the right of the people to choose their own officers for governmental administration, and pass their own laws in virtue of the legislative power reposed in representative bodies.” *Duncan v. McCall*, 139 U.S. 449, 461 (1891). The

Equal Protection Clause of the Fourteenth Amendment demands “equal state legislative representation.” *Reynolds v. Sims*, 377 U.S. 533, 568 (1964). Depriving Senator Oliver of the ability to vote during the special session, and afterward reducing her pay to the point that it severely hinders her ability to do her work, denies her constituents equal representation in the General Assembly and “run[s] counter to our fundamental ideas of democratic government.” *Id.* at 564.

When Senator Oliver casts votes in the Senate, she does not do so on her own behalf. Instead, her vote “belongs to the people” of Senate District 19. *Nev. Comm’n on Ethics v. Carrigan*, 564 U.S. 117, 126 (2011). Restrictions on her participation in the General Assembly thus infringe on her constituents’ right to equal representation. They did not have equal representation in the special session because their Senator’s vote was not counted. And they continue to be deprived of equal representation now as the ongoing punishments substantially impair Senator Oliver’s ability to do her job. In addition to the examples given above, Senator Oliver is forgoing travel to legislative town halls with the Tennessee Black Caucus of State Legislators because she is forced to use funds that would ordinarily pay for that travel to cover other expenses normally reimbursed by the State.

Given the unlawfulness of the sanctions leveled against her, Senator Oliver requests that the legislative record be amended to reflect her vote against the redistricting bill on May 7, 2026, and that all punitive measures against her be rescinded. Please direct your response to this letter to counsel at the email address listed below on or before July 31, 2026. We look forward to receiving your reply.

Sincerely,



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On Behalf of Senator Charlane Oliver