



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

August 13, 2024

Kevin Roberts, Chairman
Missouri State Fair Commission
2503 W. 16th Street
Sedalia, Missouri 65301

RE: Political Debates at the Missouri State Fair

Dear Chairman Roberts,

I'm writing to express my concern over the Missouri State Fair Commission's decision not to allow a policy debate at the Fair between Senator Josh Hawley and Mr. Lucas Kuncle. This decision by the Commission stifles political speech, the core speech protected by the First Amendment. I strongly encourage the Commission to reconsider its decision to stifle political speech, as it flies in the face of the First Amendment.

On August 9th, the Commission issued a letter stating that it is "unable to accommodate any request for political debates on the fairgrounds during the duration of the Missouri State Fair." This decision is in sharp contrast with the Commission's status as a governmental entity created by Missouri Statute. RSMo § 262.217. As a governmental entity and state actor, the Commission must ensure compliance with the First Amendment. *See Manhattan Community Access Corp. v. Halleck*, 587 U.S. 802, 802 (2019). In the hierarchy of First Amendment protections, "political speech occupies the highest, most protected position." *R.A.V.*

v. St. Paul, 505 U.S. 377, 422 (1992) (Stevens, J., concurring in judgment). In fact, the Supreme Court of the United States stated that “[i]t is perhaps [the Court’s] most important constitutional task to ensure freedom of political speech.” *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 503 (2007).

The Missouri State Fair is a limited public forum. *See Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995). In this limited public forum the Commission “may not exclude speech where its distinction is not ‘reasonable in light of the purpose served by the forum.’” *Id.* (quoting *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U.S. 788, 804–06 (1985)). By indicating that the State Fair highlights “Missouri’s Agricultural industry” the Commission has admitted that the forum is open for speech on that topic. It is hard to imagine something more related to Missouri agriculture than agricultural policy. Denying Senator Hawley and Mr. Kunce the opportunity to speak, at least on agricultural policy, is certainly not a reasonable distinction upon which to exclude protected speech. *See id.*

Senator Hawley and Mr. Kunce are the nominees of Missouri’s two major political parties for the United States Senate. Missourians deserve to and are excited to hear from these candidates. The candidates have packed venues large and small across the state with citizens eager to hear their policy positions. A debate at the Missouri State Fair is American free speech at its finest, and it is the Show-Me State at its finest. It is reminiscent of General Francis P. Blair who, in 1866, while running for Senate gave his stump speech in Pike County even after threats of assassination.

I urge the Commission to recognize that political speech is fundamental to our Republic and must be protected. Not only is it the right of speakers to engage in political speech, it is the fundamental right of the people to hear from their candidates on topics of political import. I recommend you immediately review your

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rules and policies as they relate to facilitating political speech on state fair property to ensure they comply with Constitutional requirements, current law, and best practices. My office stands ready to assist you in your review. Please contact me immediately with any questions or for additional guidance and recommendations.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andrew Bailey", with a stylized, sweeping flourish at the end.

Andrew Bailey
Missouri Attorney General