

COMMISSIONER OF
POLITICAL PRACTICES



STATE OF MONTANA

CHRIS J. GALLUS
COMMISSIONER
TELEPHONE (406) 444-2942
FAX (406) 444-1643

August 4, 2023

1209 EIGHTH AVENUE
PO BOX 202401
HELENA, MONTANA 59620-2401
www.politicalpractices.mt.gov

Representative Zooley Zephyr
Post Office Box 5213
Missoula, MT 59806-5213

Attn.: Abbey Lee Cook, Deputy Treasurer

Via Email: abbey@abbyleecook.com

Subject: Complaint received July 24, 2023; Montana Freedom
Caucus (via Darin Gaub) v. Rep. Zooley Zephyr, COPP-
2023-CFP-010

Dear Representative Zephyr;

The enclosed complaint alleges a violation of Montana election law under Title 13, Chapter 37 of the Montana Code Annotated, enforcement of which falls under my jurisdiction as Commissioner of Political Practices. The complaint also conforms to the requirements of 44.11.106 ARM, the administrative rule regarding election complaints. For those reasons, I have accepted it for further consideration.

Pursuant to Mont. Code Ann. §13-37-132, I formally request a written response from you addressing the specific issues identified in this complaint. As part of this response, I request you review the complaint and respond to matters that pertain to you.

Please provide your response by 5:00 PM on Monday August 14, 2023. The response you provide is a public record that COPP posts on our website, per Mont. Code Ann. §13-37-132.

I will review any additional materials relevant to this complaint for any deficiencies pursuant to 44.11.106 ARM, law, and prior relevant COPP rulings, and reserve the right to dismiss the complaint upon this initial inquiry. If this occurs, I will notify you and provide a basis for the dismissal. Alternatively, upon this further review, I may determine that a formal investigation is warranted. If an investigation is conducted, a summary of facts and statement of findings will be prepared, and a copy will be sent to you. This generally forms the basis as to whether the matter is going to be pursued further, which then involves referring the matter to the local county attorney.

This letter initiates the legal process established by this office and Montana law to determine whether the allegations in the complaint are valid. Consequently, at this point, all parties have a duty to maintain all records currently in your possession should my initial review result in an investigation.

While I do not anticipate that you would intentionally destroy any relevant records, due to the severity of the penalty I feel compelled to provide you with the relevant statute in this regard. See, Attached Mont. Code Ann. §45-7-207 (Tampering with or fabricating physical evidence). This Office may need to review documents connected to your residency during the prescribed period. Accordingly, Mont. Code Ann. §13-37-111 authorizes the Commissioner to inspect records, accounts, and books held by a candidate or political committee, administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers and records that are relevant or material for the purpose of conducting an investigation.

To facilitate such an investigation, please take immediate steps to retain all such records, and begin collecting and preparing records for review. This includes documents, computer communications (e.g. email), in your possession or the custody of any of your agents, representatives, or assigns. Communications with attorneys should be retained even these records might need to be produced if attorney/client privilege is not involved. As indicated, your preservation of all such documents is essential and required pursuant to this request and subject to penalties provided in Mont. Code Ann. §45-7-207.

I appreciate your time and consideration of this important matter.

Regards,



Chris J. Gallus
Commissioner of Political Practices