



Montana Legislative Services Division
Legal Services Office

April 5, 2010

TO: Susan Byorth Fox, Executive Director
FROM: Greg Petesch, Legal Director

I am writing in response to a discussion that occurred at a Legislative Council meeting relating to media access to the floor of the chambers during session. The discussion occurred during a general discussion concerning legislative space. Joint Rule 10-50 addresses media access as follows:

Subject to the presiding officer's discretion on issues of decorum and order, an accredited press representative may not be prohibited from photographing, televising, or recording a legislative meeting or hearing.

As you are aware, the Legislature has acquiesced in the accreditation or credentialing of press representatives by the Department of Administration. Once a member of the press has been accredited, there is nothing in legislative rule or policy relating to distinguishing or discriminating between or among types of media with regard to access to the chambers or to committee rooms. The only defacto limitation on access is related to limitations on floor space in the Senate Chamber.

It appears to be unwise to attempt to classify or distinguish between types of accredited press representatives for purposes of access to the floor of the chamber or other areas of legislative meeting rooms. Obviously, certain forms of electronic media press representatives require access to plug-ins that are only available in certain areas of rooms. Attempting to determine who is a "legitimate" press representative and to distinguish them from other accredited press representatives is fraught with peril, particularly in light of the changing nature of news coverage. Any classification of news media is susceptible to challenge and is likely to require constant attention and to create administrative problems.

In summary, I advise against any attempt to distinguish between types of accredited press representatives who are granted floor privileges or access not available to all accredited press representatives. Making limited space available on a first to occupy the space basis is not a distinguishment.

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