



# FIRE

Foundation for Individual  
Rights and Expression

June 2, 2023

Sent FedEx Overnight Shipping and Email

David Young, Mayor of Orem [dayoung@orem.org]

Jeff Lambson, Orem City Council [jlambson@orem.org]

Debby Lauret, Orem City Council [dlauret@orem.org]

Tom Macdonald, Orem City Council [twmacdonald@orem.org]

LaNae Millet, Orem City Council [lmillett@orem.org]

Terry Peterson, Orem City Council [tdpeterson@orem.org]

Dave Spencer, Orem City Council [dmspencer@orem.org]

Brenn Bybee, Acting City Manager [bdbybee@orem.org]

Bryce Merrill, Library and Recreation Director [bemerrill@orem.org]

City of Orem City Hall

56 North State Street

Orem, Utah 84057

Re: Retaliation against the Utah Library Association and Censorship  
of Employee Speech

Dear Mayor Young, Orem City Council members, Acting City Manager Bybee, and  
Director Merrill:

The Foundation for Individual Rights and Expression (FIRE)<sup>1</sup> is writing to  
demand that the City of Orem stop retaliating against our client, the Utah Library  
Association (the ULA), for criticizing the City's decision to ban book displays that  
promote views City officials do not like.

After supporting its librarians' participation in the ULA for years, the City  
has stripped those benefits, forcing Orem library staff to pay out of pocket and use  
personal time to participate in ULA programs and activities, even while the City  
provides similar professional development benefits to other departments. In  
addition, the City has threatened librarians who dare to speak out against the City  
on social media with discipline for insubordination. The City's actions violate our  
client's First Amendment rights to free speech and free association.

---

1



City of Orem



City of Orem

June 2, 2023

Page 5 of 7

insubordination. City officials reinforced this message of censorship at a November 3, 2022 mandatory staff training, emphasizing that staff must not criticize City policies.

The City of Orem's Actions and Social Media Policy Violate the Constitution.

The City of Orem's actions

criticism of the display ban? This vagueness opens the door for “arbitrary and discriminatory enforcement” where employees are punished only for speech that City leadership dislikes or finds challenging. And it has a drastic chilling effect on the willingness of employees to speak out and voice concerns.

, 521 U.S. 844, 871–72, (1997) (“The vagueness of such a regulation raises special First Amendment concerns because of its obvious chilling effect on free speech”).

The policy’s saving clause, stating that “[n]othing herein shall be construed to prevent an employee from speaking out on matters of public concern provided that the employee’s interest in making the communication outweighs the City’s interest as an employer in preventing the communication,” does little to inform employees in advance as to what speech is permissible or prohibited and cannot save this unconstitutional policy. A library employee pondering whether to criticize the City on social media cannot know whether her “interest in making the communication outweighs the City’s interest as an employer in preventing the communication.”

The City’s retaliatory actions against the ULA and Orem Public Library employees, and its social media policy, are harming the ULA and Orem librarians and violating their First Amendment rights. The City must immediately stop its retaliatory and viewpoint discriminatory conduct.

Please provide confirmation no later than the close of business on June 30, 2023, that the City has rescinded its ban on benefits for library employees who want to associate with the ULA and that library employees will enjoy the same benefits as other city employees, including the right to participate in professional organizations. Additionally, please confirm by that date that library employees will be free to speak their mind with respect to City policies that impact their jobs without the fear of retaliation; that city employees will be made aware of their constitutional right to publicly criticize city policies; and that the City will eliminate the unconstitutionally vague and overbroad restrictions on employee speech from the employee handbook.

We are hopeful you will honor your constitutional obligations to respect and uphold the First Amendment rights of your employees. Otherwise, FIRE will file a lawsuit and seek the full array of remedies including damages and attorney’s fees.

Thank you for your prompt attention to this matter. Please do not hesitate to contact us with any questions.

City of Orem

June 2, 2023

Page 7 of 7

Sincerely,

/s/

\_\_\_\_\_  
Jerome Mooney\*

Partner

Weston, Garrou, and Mooney

Wilshire Bundy Plaza

12121 Wilshire Boulevard

Suite 525

Los Angeles, California 90025