

THE
ROGER
BALDWIN
FOUNDATION
OF ACLU,
INC.

150 N MICHIGAN AVE STE 600
CHICAGO IL 60601-7570
T: 312-201-9740
F: 312-288-5225
WWW.ACLU-IL.ORG



December 12, 2024

Via Email:

Board of Trustees
Highland Park Public Library
494 Laurel Avenue
Highland Park, IL 60035
Library-Board@hplibrary.org

Dear Board Members:

The ACLU of Illinois was dismayed to learn about recent changes to the Highland Park Public Library's policy on community use of its auditorium and its largest meeting room. Specifically, the policy gives the Executive Director unbridled discretion to require proof of insurance or to "charge an additional fee for costs relating to security and related services." We agree that safety and security are important needs. But the library may not address safety concerns by imposing extra costs on constitutionally protected but controversial speech. These policy changes are unconstitutional, and we request that you promptly rescind them.

We understand that a recent incident in Northbrook may have been the impetus for the policy change.¹ A private individual or group reserved a Northbrook Public Library meeting room to screen the film "Israelism." The library received multiple angry emails, some of which expressed an intent to protest the event, but none of which threatened violence. Nonetheless, the Northbrook Police Department advised the library that it was necessary to hire an outside security firm for the screening. Pursuant to the library's policies on room booking, it required the reservation holder to provide payment for the outside security and liability insurance ahead of the scheduled event. In response, the reservation holder cancelled the screening.

In short, due to the angry reaction to the film's ideas, the library imposed a fee that ultimately prevented the film from being shown. The Highland Park Public Library should seek to *avoid* such an outcome, not *aspire* to it. A public library is meant to provide "information presenting all points of view on current and historical issues" and to make library facilities available "on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use."² A library cannot meet this goal when it allows members of the public who

¹ See "Important Update re: September 18 Film Screening," Sept. 11, 2024, available at <https://northbrook.info/keep-in-touch/news/important-update-re-september-18-film-screening>.

² American Library Association, *Library Bill of Rights*, rev. Jan. 29, 2019, available at <https://www.ala.org/advocacy/intfreedom/librarybill>. See also *Meeting Rooms: An Interpretation of the Library Bill of Rights*, available at <https://www.ala.org/advocacy/intfreedom/librarybill/interpretations/meetingrooms#Notes>.

are unhappy about a group's use of a library room to shut down the event by creating sufficient hue and cry to instigate a cost-prohibitive "security" fee.

For these reasons, policies that impose extra financial burdens on speakers based on the expected reactions of listeners violate the First Amendment, as the Supreme Court and other courts have held repeatedly.³ Such policies penalize controversial, minority viewpoints.⁴ In effect, they allow those who disagree with the speech to suppress it merely by making their intent to counterprotest clear, creating a "heckler's veto."

The Highland Park Public Library's new policy also provides unbounded authority to government officials to determine whether and how much to charge patrons to ensure the public safety and whether liability insurance is required. In the absence of objective guidelines governing insurance and fees, government officials have the power to make disfavored ideas more expensive to express. This power is another reason the new policy is unconstitutional.⁵

To summarize, the library may not charge a premium on a rented room because the renter will express controversial ideas that may cause *others* to act badly. The responsibility for protecting speakers, counter-speakers, and others lies with the library and with the City of Highland Park. They may not fob off the cost of this obligation onto those engaged in constitutionally protected speech.

For these reasons, we urge you to rescind the policy amendments allowing the library to require some groups and individuals who use certain library rooms to provide insurance and pay extra "security" fees at the discretion of the Executive Director.

Thank you for your attention to this matter. If you would like to discuss this matter further, please do not hesitate to contact me at rglenberg@aclu-il.org.

Sincerely,



Rebecca K. Glenberg
Chief Litigation Counsel: First Amendment

cc: Heidi Smith, Executive Director, hsmith@hplibrary.org

³ See *Forsyth County, Ga. v. Nationalist Movement*, 505 U.S. 123, 134-35 (1992); *Surita v. Hyde*, 665 F.3d 860, 876 (7th Cir. 2011).

⁴ Discrimination based on viewpoint is unconstitutional regardless of whether the library rooms are characterized as "designated," "limited," or "nonpublic" forums. *Shurtleff v. City of Boston, Massachusetts*, 596 U.S. 243, 247 (2022); *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829-31 (1995); *Ezell v. City of Chicago*, 651 F.3d 684, 707 (7th Cir. 2011).

⁵ *Forsyth County* at 132-33.