

RESPONDING TO FIRST AMENDMENT AUDITS

NOTE: This is not meant to convey legal advice.

PRINT THIS!
KEEP IT AT THE
REF DESK!
USE THE BACK
FOR NOTES!

WHAT IS A “FIRST AMENDMENT AUDIT”?

“Auditors” are private parties interested in increased access to government activity. They often approach public employees with suspicion and hostility. “Auditors” generally film public employees and officials at work. These are not real audits, and not official investigations

WHAT’S THE POINT?

- Recording interactions with public employees and posting them online in an attempt to show institutional bias.
- Provoking employees in hopes that they violate the First Amendment.

HOW CAN WE PREPARE?

- Staff should be aware of these potential interactions
 - Have a plan of action in place that includes ALL staff
 - Designate “Staff/Employee Only” areas
 - Review local “Public Space/Records” laws
- Keep these common requests accessible:
- Bylaws and Policies
 - Budget/Appropriation Ordinance
 - Board Meeting Minutes

IS IT LEGAL? HOW CAN WE RESPOND WITHIN THE LAW?

It is legal in many states to film in a public place. The Supreme Court has ruled that if a local government restricts filming or other forms of “speech” in a “limited public forum” (like the public library), those restrictions must be viewpoint-neutral and reasonable in light of the purpose of the forum. Courts have determined reasonable restrictions to include:

- Preventing disruption of a government property’s intended function;
- Protecting the safety and convenience of those using a public forum;
- Avoiding disruption and maintaining the peace in a government workplace.

GET TO
KNOW THE
LAW AND
TALK TO
YOUR LEGAL
COUNSEL

WHAT SHOULD I DO IF AN “AUDITOR” IS IN MY LIBRARY?

- Engage them as you would any patron. Treat this interaction as you would others.
- Avoid immediately bringing in your supervisor. “Auditors” are hoping for escalation.
- If their request is reasonable, fulfill it. If you need help with this, reach out to your supervisor!
- If their request is burdensome, offer to contact them at a later date with the information.
- If other patrons are uncomfortable, bring in other staff as backup.
- Above all else, stay calm. After all, if an interaction is unremarkable, it isn’t good content!

WHEN DOES IT BECOME HARASSMENT?

Bear in mind the Supreme Court’s reasonableness standard. This interaction **should not prevent you from performing your work nor disrupt other patrons’ use of the library.**

Take notes after the interaction and then discuss with staff and legal counsel.



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