



BOISE STATE UNIVERSITY
VICE PRESIDENT FOR CAMPUS OPERATIONS
AND GENERAL COUNSEL

July 17, 2014

Geoffrey D. Talmon
Executive Director
Idaho Freedom Foundation
2404 Bank Dr., Ste. 314
Boise, ID 83705

RE: Idaho Freedom Foundation Letter dated June 30, 2014

Dear Mr. Talmon,

I serve as General Counsel for Boise State University, and I am responding to your letter dated June 30, 2014 informing the University that you serve as legal counsel for Young Americans for Liberty at Boise State University (YAL). That letter was addressed to President Kustra. Please direct further correspondence regarding this matter, or any others, to my office.

Your letter provided YAL's account of the events leading up to and surrounding the reservation of the Special Events Center ("SPEC") space for a speech to be delivered by Dick Heller on May 16, along with your recitation of your legal position and some case law and citations. I am not going to respond point-by-point to your interpretation of the facts or law, but instead will present a few items you left unaddressed and present a solution.

The initial reservation for the SPEC occurred in April, and included only a reference to the speaker as "Heller." Then a week later the organizers changed the speaker to "Hage." Then, several days before the event, staff was again notified that the speaker was changed back to "Heller" and the change was noted in the computer on May 12, only four days before the event was to take place. Only then did the organizers from YAL inform staff that Mr. Heller would be the featured and confirmed speaker, and still, the *University made no change* to the reservation or any security planning, except to note the speaker's name change in the computer. Note that point well. Even though your clients had seemingly misrepresented the nature and scope of the event for the room reservation, when they did come forward with the accurate information, the University made NO change to the security staffing or planning.

Notably, however, on May 14, two days before the event, Campus Security staff was alerted to a credible security threat related to the event. Specifically, a person communicated via the YAL

Facebook page that he intended to carry his weapon onto campus and into the event within the Student Union Building. This post was also *urging others to do the same on the YAL social media webpage*. Campus security officials determined that this person posed a security risk for the campus community – and not just the risk of one person openly carrying a firearm into the Student Union Building in violation of policy, but rather, *many*. And again, this post was on the official communications site of your client.¹

Failing to consider mobilizing additional security staff or law enforcement to address the legitimate threat and the social media declaration to violate University policy with a loaded weapon would have amounted to negligence. Rather, the addition of security was the only rational response.

In short, the University's additional security had nothing to do with the speaker or the content of his speech. On the contrary, the additional security, and the costs associated with the additional security are directly tied to the risk the identified attendee posed in openly and brazenly declaring he would carry a firearm in violation of policy, and declaring that others should join him.

So the question becomes, who should pay for the security costs associated with an event that demands some element of security? Responsibility should rest with the organizing entity – regardless of the speech or its content. Responsibility should not rest with the University, and the students and taxpayers who pay to fund the University's operation.

But, to be sure, it would be a great drain and waste of taxpayers' public resources to continue prosecution of the claim on behalf of YAL and the University's defense of the same. Therefore, in an effort to fully resolve this matter, the University will rescind the \$465 amount from the invoice to the YAL student organization account (as the payment has not yet been made by YAL).

As a final note, this University deeply values the open exchange of ideas and will not limit speech using security expenses as a method to chill or to depress speech or expression. Rather, as stated in policy, Boise State is a "forum for the broadest expression of views not in conflict with the normal uses of the campus, the rights of others, and the limitations of lawful conduct." We host literally hundreds, if not thousands, of free speech events of all types and viewpoints each year. Your hyperbole regarding the University's attitude toward free speech is completely unwarranted. We are in constant review of our policies and practices to ensure they meet the latest legal guidance and take very seriously our duties under the First Amendment. Any allegation to the contrary is baseless.

With the cancellation of the \$465 amount, we will consider the matter closed, please let me know if this is not your intention. I can be reached at 208-426-1233.

¹ In fairness, your client later recanted this post and posted a note to the contrary. That was appreciated, and aided in informing the public that they were not in fact allowed to carry weapons at the event. However, that act could not "un-ring the bell."

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin D. Satterlee", with a long horizontal flourish extending to the right.

Kevin D. Satterlee

Vice President & General Counsel

cc: Ari Z. Cohn, Program Officer, Legal and Public Advocacy

Richard Eppink, Legal Director, ACLU of Idaho

Matthew K. Wilde, Deputy General Counsel, Boise State University