



October 6, 2026

Town of Greene Select Board
c/o Kelly Ouellette, Secretary to Selectmen
220 Main Street
Greene, Maine 04236

Sent via U.S. Mail and Electronic Mail (kellyo@townofgreene.net)

Dear Select Board Members:

The Foundation for Individual Rights and Expression (FIRE), a nonpartisan nonprofit that defends free speech nationwide, is concerned by the rules governing public comment at Town of Greene Select Board meetings. The First Amendment prohibits public bodies from adopting or enforcing vague, overbroad, or viewpoint-discriminatory rules that infringe citizens' rights to speak freely and criticize government officials. FIRE calls on the Select Board to bring its rules into compliance with the First Amendment.

Our concerns arise from rules read aloud during the Select Board's July 13, 2026, meeting in response to a speaker objecting to the Select Board's management of its public comment period at a previous meeting.¹ The Board Chair stated, in relevant part:

No public comments shall be allowed which has [sic] the effect of embarrassing or attacking the character of any individual or board member . . . No complaints [or] allegations will be allowed in public concerning any staff member or any person connected to the Town of Greene. Complaints will be referred to the town manager. . . . If unresolved, the issue goes to the Select Board. Complaints regarding the Town Manager go to the Board of Selectmen. These are our rules, these were verified by counsel, and that's what we operate by.²

Later in the same meeting and in response to another commenter's additional objections to actions of the Select Board at the previous meeting, the Select Board Chair again emphasized

¹ FIRE does not represent any of the speakers whose remarks prompted the Chair's comments but writes independently as a free speech advocacy organization. This letter addresses the Board's rules themselves; we do not undertake to resolve the particulars of any individual exchange at the Select Board's meetings.

² WGLT Greene ME, *Select Bd. July 13, 2026*, CASTUS (July 13, 2026), at 8:15, <https://greenemetv7.vod.castus.tv/vod/?video=3e59764c-2d75-4c1f-91d4-0885ecc47530>. FIRE transcribed these remarks from the Select Board's recording of the July 13 meeting. Omissions reflect interjections unrelated to the recitation of the rules.

that the board’s “rules specifically state there’s no personal attacks on anybody”³ and that the board had allowed an individual to speak “until she started doing personal attacks, and that’s when we shut it down.”⁴

The First Amendment protects speech by members of the public at government meetings.⁵ Public comment periods by their nature are, at minimum, limited public forums, where the government may impose only viewpoint-neutral restrictions that are reasonable in light of the forum’s purpose.⁶ The Select Board may, for example, adopt reasonable time limits on comments. But it may not restrict comments because they are critical of government officials or employees, or “when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.”⁷ The Select Board can likewise prohibit genuinely disruptive conduct—such as speaking when not recognized or making true threats.⁸ However, it cannot stretch the meaning of disruption to encompass constitutionally protected speech.

The Select Board’s prohibitions on comments that have “the effect of embarrassing or attacking the character of any individual or board member” and on “complaints or allegations . . . concerning any staff member or any person connected to the Town of Greene” unconstitutionally discriminate based on viewpoint because they selectively target speech expressing a negative or critical perspective. The Supreme Court has made clear that even a restriction that “evenhandedly prohibits disparagement of all groups” is viewpoint discriminatory,⁹ and federal courts across the country have invalidated similar rules banning “personal attacks” or “antagonistic,” “abusive,” “derogatory,” “offensive,” “rude,” “insulting,” or “personally directed” public comments.¹⁰

³ *Id.* at 20:33.

⁴ *Id.* at 21:17.

⁵ *City of Madison, Joint Sch. Dist. No. 8 v. Wis. Emp. Rels. Comm’n*, 429 U.S. 167, 174–76 (1976).

⁶ *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995).

⁷ *Id.*

⁸ “True threats are ‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence.’” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023) (citing *Virginia v. Black*, 538 U.S. 343, 359 (2003)). True threats do not include speech which amounts to a joke or rhetorical hyperbole. *See, e.g., Watts v. United States*, 394 U.S. 705, 708 (1969) (man’s statement, after being drafted to serve in the Vietnam War—“If they ever make me carry a rifle the first man I want to get in my sights is L. B. J.”—was rhetorical hyperbole protected by the First Amendment, not a true threat to kill the president).

⁹ *Matal v. Tam*, 582 U.S. 218, 243 (2017).

¹⁰ *See, e.g., Moms for Liberty — Brevard Cnty. v. Brevard Cnty. Pub. Schs.*, 118 F.4th 1324 (11th Cir. 2024) (enforcement of restrictions on “abusive,” “personally directed,” and “obscene” public comments was unconstitutional); *Ison v. Madison Local Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 894–95 (6th Cir. 2021) (bans on “antagonistic,” “abusive,” and “personally directed” public comments violated First Amendment as effectuating “impermissible viewpoint discrimination” by prohibiting nondisruptive speech “purely because it disparages or offends”); *Mejia v. Lafayette Consol. Gov’t*, No. 6:23-CV-00307, 2025 U.S. Dist. LEXIS 52868, at *24–25 (W.D. La. Mar. 20, 2025) (library board had no authority to restrict public comments on grounds they were “vile,” “derogatory,” or “confrontational”); *Mama Bears of Forsyth Cnty. v. McCall*, 642 F. Supp. 3d 1338, 1350 (N.D. Ga. 2022) (school district’s public comment protocols stating that “attacks of a personal nature . . . will not be allowed or tolerated” constituted evidence of viewpoint discrimination).

To the extent the rules bar criticism of Select Board members or town employees, the rules raise especially grave constitutional issues. The First Amendment reflects our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and ... may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”¹¹ The government cannot allow government officials to “be praised but not condemned.”¹²

Nor would the problem be solved by extending the rules to exclude praise as well as criticism. Even a viewpoint-neutral ban on merely mentioning government officials or employees is unreasonable for a forum designed to allow the public to express concerns related to town operations.¹³ In many circumstances, members of the public cannot meaningfully comment on government actions without referencing the individuals who carry them out.¹⁴

A rule that directs complaints to the town manager does not cure the defect either. A ban on “complaints or allegations” “allows expression of two points of view (laudatory and neutral) while prohibiting a different point of view (negatively critical) on a particular subject.”¹⁵ A complaint “is not a topic; it is a viewpoint about a topic,”¹⁶ and availability of another channel does not change the fact that the Select Board has excluded certain viewpoints from its public comment period.

Of particular relevance, in April 2026, the federal district court in Maine preliminarily enjoined the Augusta Board of Education from enforcing several provisions of its public comment policy.¹⁷ The court held the school board’s prohibition on “abusive” language was facially unconstitutional as it “single[d] out speech that offends or insults its target,” which is “classic viewpoint discrimination.”¹⁸ The court likewise held a ban on “vulgar” language operated “as

¹¹ *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964); *see also Snyder v. Phelps*, 562 U.S. 443, 452 (2011) (“[S]peech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.”).

¹² *Barron v. Kolenda*, 203 N.E.3d 1125, 1139 (Mass. 2023) (quoting *Matal*, 582 U.S. at 249 (Kennedy, J., concurring)).

¹³ *Moms for Liberty*, 118 F.4th at 1337 (holding unconstitutional a school board’s prohibition on “personally directed speech” because it “actively obstructs a core purpose of the Board’s meetings—educating the Board and the community about community members’ concerns.”).

¹⁴ *Id.* (“If a parent has a grievance about, say, a math teacher’s teaching style, it would be challenging to adequately explain the problem without referring to that math teacher. Or principal. Or coach. And so on. Likewise when a parent wishes to praise a teacher or administrator.”).

¹⁵ *Spiehs v. Lewis*, 2024 U.S. Dist. LEXIS 226266 at *28 (D. Kan. Dec. 13, 2024) (quoting *Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719, 730 (C.D. Cal. 1996)).

¹⁶ *Id.* at *27; *see also Rosenberger*, 515 U.S. at 829 (government officials may not restrict speech “when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction”).

¹⁷ *Blanchard v. Augusta Bd. of Educ.*, No. 1:26-cv-00049-SDN (D. Me. Apr. 29, 2026), *available at* <https://www.ifs.org/wp-content/uploads/2026/04/24-Amended-Order-on-MPI.pdf>. The court recently entered a consent judgment permanently enjoining the school board from enforcing the unconstitutional provisions of the now-repealed policy. IFS Staff, *Judgment Permanently Ends School Board’s Censorship of Public Comment*, INST. FOR FREE SPEECH (Sept. 18, 2026), <https://www.ifs.org/news/judgment-permanently-ends-school-boards-censorship-of-public-comment>.

¹⁸ *Id.* at *21–22.

an additional restriction on offensive viewpoints rather than as a legitimate, viewpoint-neutral decorum rule.”¹⁹ And it held the policy’s ban on “complaints or allegations . . . concerning any person employed by the school system” and “[p]ersonal matters or complaints” was both unconstitutionally vague, as well as not viewpoint neutral in restricting only complaints.²⁰ The Select Board’s policy here is unconstitutional for the same reasons.

Even aside from the fatal viewpoint discrimination, the Select Board’s rules are unreasonable and overbroad because they “prohibit[] a substantial amount of protected speech . . . not only in an absolute sense, but also relative to the [rules’] plainly legitimate sweep.”²¹ A federal court blocked enforcement of bans on “abusive,” “inappropriate,” “offensive,” and “personally directed” public comments as encompassing a “broad array of constitutionally protected speech.”²² The Select Board’s rules similarly reach a vast amount of protected, non-disruptive speech. While the Board may be able to bar *some* speech it deems “embarrassing,” “attacking” or a “complaint or allegation” if it actually disrupts a meeting or is wholly unrelated to town business, the rules as read by the Chair have no language limiting enforcement to such cases.²³

The sweep of the Select Board’s rules is remarkable. The ban on “complaints or allegations” extends not only to town staff but to “any person connected to the Town of Greene,” which would include not only elected officials, town employees, volunteers, contractors, and vendors but could plausibly include any town resident. The ban on comments that embarrass or attack the character of “any individual” is not even limited to individuals connected with the town.

The rules are also unconstitutionally vague because speakers “of common intelligence must necessarily guess at [their] meaning,”²⁴ and they lack “explicit standards” to prevent “arbitrary and discriminatory enforcement.”²⁵ Even in a limited public forum, where “some degree of discretion in how to apply a given policy is necessary, ‘that discretion must be guided by objective, workable standards’ to avoid the moderator’s own beliefs shaping his or her ‘views on what counts’ as a policy violation.”²⁶ Terms such as “embarrassing” or “attacking” are

¹⁹ *Id.* at *24–25.

²⁰ *Id.* at *26–30, 30 n.8.

²¹ *United States v. Williams*, 553 U.S. 285, 292 (2008).

²² *Marshall v. Amuso*, 571 F. Supp. 3d 412, 425–26 (E.D. Pa. 2021) (noting the Supreme Court, in *Gooding v. Wilson*, 405 U.S. 518 (1972), found the term “abusive” overbroad in other contexts, reaching speech outside the “fighting words” category of unprotected speech).

²³ See *Blanchard*, No. 1:26-cv-00049-SDN, slip op. at 22 (acknowledging ban on “abusive” public comments might have passed constitutional muster if it were limited to “narrow, viewpoint-neutral characteristics—such as actual disruption, shouting, threats, or true harassment”).

²⁴ *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926).

²⁵ *Grayned v. City of Rockford*, 408 U.S. 104, 108–09 (1972).

²⁶ *Marshall*, 571 F. Supp. 3d at 425–26 (quoting *Minnesota Voters All. v. Mansky*, 585 U.S. 1, 21–22 (2018)). This “need for specificity is especially important where . . . the regulation at issue is a content-based regulation of speech,” as vagueness has an “obvious chilling effect on free speech.” *Id.* (quoting *Sypniewski v. Warren Hills Reg’l Bd. of Educ.*, 307 F.3d 243, 266 (3d Cir. 2002)).

unconstitutionally vague because they are “irreparably clothed in subjectivity”—that is, their interpretation varies from “speaker to speaker, and listener to listener.”²⁷

When does criticism of a Select Board member’s decision become an “attack” on the member’s character? Does criticizing a town action or decision become a prohibited “complaint” or “allegation” about a board member or employee simply because that person was involved in it—even if the speaker never names them? How is a commenter to know what any elected official, employee, or individual connected with the town will find embarrassing? Moreover, because the rules hinge on the “effect” of a comment, their boundaries are not set by anything the speaker can anticipate but by the sensibilities of listeners. And there is no “guidance or other interpretive tools to assist in properly applying” the policies, allowing officials’ personal views to shape enforcement.²⁸ The First Amendment demands lines fixed by clear and objective criteria, not by the arbitrary sensibilities of officials who may be tempted to silence speech they find uncomfortable or politically inconvenient.

When it comes to protected speech that some listeners may find objectionable, “the remedy to be applied is more speech, not enforced silence.”²⁹ FIRE calls on the Select Board to take immediate steps to bring its public comment rules into compliance with the First Amendment.

We stand ready to assist—at no cost—in crafting policies that respect constitutional limits and preserve order at meetings, as we have done with other local governments.³⁰ We respectfully request a substantive response to this letter no later than October 20, 2026.

Sincerely,



M. Brennen VanderVeen

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²⁷ See *Marshall*, 571 F.Supp. 3d at 424.

²⁸ See *id.*

²⁹ *Whitney v. California*, 274 U.S. 357, 377 (1927).

³⁰ See, e.g., Carrie Robison, *VICTORY: Michigan city recognizes First Amendment right to ‘demean’ government officials*, FIRE (Jan. 17, 2024), <https://www.thefire.org/news/victory-michigan-city-recognizes-first-amendment-right-demean-government-officials>.