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American Civil Liberties Union of the National Capital Area

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January 7, 2009

Grace Perry-Gaiter, Esquire
General Counsel
District of Columbia Public Library
Martin Luther King Jr. Memorial Library
901 'G' Street, NW, 4th floor
Washington, DC 20001

**Re: Notice of Proposed Rulemaking
(D.C. Register of December 19, 2008)**

Dear Ms. Perry-Gaiter:

The ACLU of the National Capital Area comments as follows on Guideline #23 prohibiting “speeches or sermons outside library facilities without an official permit from the chief of police.” The Guideline is unlawful and must be deleted from the Proposed Rulemaking.

Guideline #23 appears to be a continuation of the previous Guideline 28 still found on the Library Web site and described there as having been adopted by the Library Board of Trustees on November 12, 2003 as part of a series of “Customer Behavior Guidelines.” The requirement for a permit in Title 24 of the D.C. Municipal Regulations (DCMR) at § 700.1 was eliminated by D.C. Law 15-352 of April 13, 2005. See D.C. Official Code § 5-331.05 (Notice and plan approval process for First Amendment assemblies – generally), which reads:

- (a) It shall not be an offense to assemble or parade on a District street, sidewalk, or other public way, or in a District park, without having provided notice or obtained an approved assembly plan.

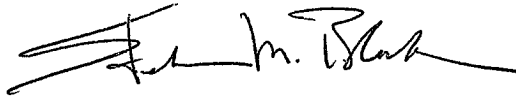
This change was incorporated into 24 DCMR § 705.6 (no penalty for speech or sermon without notice or permit).

Because the Proposed Rulemaking contradicts the statute governing the exercise of First Amendment rights in the District of Columbia, it must be deleted. See *District of Columbia v. Catholic University of America*, 397 A.2d 915, 919

(D.C. 1979) ("it is axiomatic that a regulation be consistent with the statute under which it was promulgated.").

Thank you for your consideration of our comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen M. Block". The signature is fluid and cursive, with a prominent initial "S" and a long horizontal stroke at the end.

Stephen M. Block
Legislative Counsel