



Office of the City Manager

August 24, 2016

To: Honorable Mayor and Members of the City Council

From: *Dee* Dee Williams-Ridley, City Manager

Subject: Response to Communications to Council regarding Library Whistleblowers

As many of you are aware, there have been numerous communications to Council the last few months regarding “Library Whistleblowers”. The communications spiked in mid-July, when the City Clerk attached 104 “similarly-worded” emails (containing the subject line “Library Whistleblowers: COMMEND them don’t condemn them”) to the July 12 and 19, 2016 Agenda packets. Thereafter, Councilmember Worthington referred the communications to me for a response.

THE EMAILS

The vast majority of the emails received by the City Clerk include the following opening paragraph:

“Defend the whistleblowers. They were doing their jobs in 2015 when the public and city council members were told there had been 2,200 books removed from the library. The whistleblowers gave city council the computer codes that showed the true number of books withdrawn was actually 39,815 volumes. Staff need protection from retaliation, investigations and harassment from managers. Protect the whistleblowers.”

CURRENT WEEDING PRACTICES

As you are all no doubt aware, for the past eighteen months there has been a lot of controversy surrounding Library weeding policy and practice. To prepare this response, I reviewed information from the Board of Library Trustees (“BOLT”) Chair and Library management regarding current weeding practices. First, collection review and maintenance is a critical – and challenging -- process in libraries of all types. The Library is committed to developing collections, resources and services that meet the informational, cultural and recreational needs of Berkeley’s diverse community. The overall collection must be relevant, engaging and appealing. However, contrary to much of what has been reported in the local media and elsewhere, the current weeding practices were not only approved by BOLT, but several times since the controversy began BOLT has specifically reaffirmed its support of

those weeding policies (e.g., at the September 2015, May 2016 and June 2016 BOLT meetings). Thus, it is clear that BOLT supports the service model of centralized collection development with respect to growing and maintaining a library that benefits the community.

To meet that challenge, the Library's practice is for trained, experienced librarians to evaluate materials in the Library's collection on a regular and ongoing basis, using staff-generated statistical requirements as a first step. During the review process, materials are evaluated by many criteria, some of which include age and/or currency of material, condition, and community interest, among other factors. Materials may be removed, replaced or repaired after professional review. Throughout this process, all staff are encouraged to participate in the many avenues available for their input.

THE CURRENT DISCIPLINARY ACTION AND INVESTIGATIONS

There have been a number of statements made recently that incorrectly characterize personnel actions happening at the Library. Under California law, individual employees have a right to privacy. Employers, therefore, are required to protect the privacy of all employees; this limits the Library's ability to respond directly to the emails regarding personnel issues. However, I can report the following:

- Only one Library employee is currently facing proposed disciplinary action. Over the last eighteen months, there was only one other proposed disciplinary action pending against a Library employee, and that matter was resolved by mutual agreement between the Union, the employee and the Library. Library management denies this sole proposed action is retaliatory.
- There is currently one Union Grievance in process; that grievance does not involve any aspect of employee discipline.
- There is a single ongoing investigation into possible misconduct by Library employees, and management has no role in that investigation, as it is being conducted by an outside investigator.¹ To date, no employee is facing proposed discipline as a result of that investigation.

The emails all include the statement: "Staff need protection from retaliation, investigations and harassment from managers." The City of Berkeley and the Berkeley Public Library take seriously the legal and contractual rights of our employees. Our MOUs with Unions include negotiated disciplinary procedures that protect the rights of employees. The MOU requires the Library to provide adequate notice of proposed discipline and allows employees the right to representation throughout the process. The MOU also provides a clear process for employees

¹ Library management's decision to hire an outside investigator was done out of an abundance of caution, in order to guarantee due process for all subject employees. The investigation naturally includes interviews of subject employees, and during the investigation those employees have been afforded every right due them under the law and the MOU (including adequate notice of the allegations and the right to Union representation). It must be noted that because the investigation is being conducted by an outside investigator, it is the outside investigator that is making the determinations of which employees will be interviewed.

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to appeal disciplinary actions at several levels. Discipline appeal procedures are built into the process, including a final appeal to a neutral arbitrator, who issues a binding decision after a full evidentiary hearing where the employee is represented by the Union and Union counsel.

While the laws that protect employee privacy prohibit Library management from providing any specifics regarding any employee that has been interviewed as part of the investigation and the one employee facing proposed discipline, Library management believes it is in full compliance with the MOU, and that due process is being respected in those interactions.

Finally, as to the reference in the emails that “in 2015 when the public and city council members were told there had been 2,200 books removed from the library” when the actual number was many times higher, significantly, it is important to note that the statement was made by the former Library Director who resigned a year ago. At no time during (or after) the former Director’s tenure did he have any role whatsoever regarding the current investigation or either the resolved or pending disciplinary matters.

cc: Zach Cowan, Interim Deputy City Manager / City Attorney
Mark Numainville, City Clerk
Ann-Marie Hogan, City Auditor
Sarah Dentan, Acting Library Director
Matthai Chakko, Public Information Officer