



AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION

Delaware

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April 24, 2026

Mayor John Carney  
City of Wilmington

Dear Mayor Carney:

I am writing regarding recent reports about the Open Mic Night that was hosted by the City of Wilmington on April 23, 2026 at The Queen in Wilmington. According to multiple reports, performers at the event were advised by city staff ahead of time the following: ***“Please be advised that we ask each act to stay away from subject matter around homelessness and the LGBTQ community. Other than that, please feel free to express yourselves!”***

The ACLU of Delaware is concerned that this violates the performers’ First Amendment rights as overly broad restrictions, and viewpoint discrimination.

While we have seen the city’s social media post today clarifying that this statement from staff was intended to prevent participants from disparaging either of these communities, it is important to note that this is not what their warning did. Therefore, our concerns have not been allayed by this statement.

**Guidance from staff is overly broad**

The note from the staff said that all acts should stay away from subject matter around homelessness and LGBTQ+ issues. Importantly, it does not say that performers should avoid using disparaging language, epithets, or other discriminatory words about these groups. Instead, it instructs the acts to avoid these subject matters altogether.

This is clearly overly broad and would not stand up to constitutional scrutiny. For instance, an act who happens to be LGBTQ+ who might wish to reference their partner would be in violation of this rule. Or another act who experienced homelessness in their lifetime would not be able to reflect on or utilize those stories as part of their act either. Given that the Open Mic Night promised a cash prize, performers likely felt pressure to abide by the rules or risk a potential loss in income.

**Selection of subject matters was arbitrary**

If the intent was to maintain a welcoming space for all community members, as

stated on the city's social media post on April 24, 2026, then it would stand to reason that officials would also warn performers not to use disparaging language about race, religion, gender, national origin, disability, or other protected classes under Wilmington city and Delaware state law. However, the staff members only selected these two subject areas, which suggest that only people speaking about these issues faced potential censorship or punishment. Taken at face value, participants could talk about their race and the impact it has had on their lives, but they could not talk about their sexual orientation and their chosen partner. Similarly, a performer could discuss the recent international hot topic of the war in Iran, but could not talk about a local hot topic of homelessness and the current encampment in Christina Park. This smacks of viewpoint discrimination to single out only these two topics, and presents a possible violation of participants' First Amendment rights.

**Chilling effect of staff warning**

While the city may wish to maintain that they only meant to keep performers from disparaging members of the unhoused and LGBTQ+ communities, the words from staff members betray this potential intent. Such a warning to stay completely away from these subject matters certainly might frighten a performer from mentioning any aspect of their lives that might overlap with LGBTQ+ or homelessness issues, even if it was not the city's initial intent to restrict this type of speech. Similarly, these warnings could chill additional speech, including speech around issues of non-LGBTQ+ sex and relationships, issues of poverty, and other "controversial" political issues.

When the city undertakes sponsoring an event—especially a forum marketed as an "Open Mic"—it must take great pains to ensure that any guidelines produced adhere to its commitments to the First Amendment. This situation fell far short, and we strongly urge the city to revisit its guidance so it does not repeat these issues in the future.

Sincerely,



Mike Brickner  
Executive Director  
ACLU of Delaware