

[Your Name]
[Your Address]
[Your Contact Information (phone number and/or email)]

[Date]

[Government Official's Full Name]
[Government Official's Title]
[Government Official's Mailing Address (if mailing letter) or Email Address (if emailing letter)]

[VIA U.S. MAIL / VIA EMAIL]

RE: Unconstitutional **[Blocking (and/or) Comment Deletions]** of Social Media Users Who Make Critical Comments

Dear **[Government Official's Title and Last Name; example: "Councilmember Smith"]**:

[As your constituent, (delete if not applicable)] I am glad that your Office has embraced social media to interact with the public. However, I am deeply concerned by what looks like your Office's illegal suppression of free speech on your official **[Facebook/Twitter/Instagram/etc. (include as many as applicable)]** account[s]. I was able to use social media to voice my views directly to you and your staff until **[I was blocked by your official account (and/or) my comments on posts to your official account were deleted]** because I criticized **[your actions / your positions]** on **[Type of Issue; example: "unhoused people in our City"]**. I have attached screenshots proving that **[my comments were deleted (and/or) I was blocked]**, while other comments that were neutral or praised you remain on your page[s] with their senders apparently not blocked. Providing different levels of access to official social media pages violates the First Amendment, and I strongly urge your Office to stop unconstitutionally censoring me by preventing me from engaging with your page[s].

The **[Facebook/Twitter/Instagram/etc. (include as many as applicable)]** page[s] I was restricted from using, found at **[Insert Link(s)/URL(s) to Page(s) Here]**, **[is / are]** your official account[s]. **[Use this paragraph to show the page is an official page; for example, use as many of these sentences that apply:]**

- Your **[Facebook/Twitter/Instagram/etc.]** page is called **"[Name of Page]"**, an official title. **[Repeat as necessary for each official social media page.]**
- You use **[this official page / these official pages]** to post about official government business, such as **[Give an Example from their Posts; example "new construction in our County"]**.
- You also **[list your page as an official page (and/or) include government contact information on the page]**.
- You have **[a separate campaign page (and/or) a separate personal profile]**.

Because you allow public comments on your page[s], **[it is a government forum / they are government forums]**. **[In addition, my comments did not violate any comment policy listed**

on your page. (delete this sentence unless there is a clear comment policy set forth on the social media page)]

For **[length of time]**, I have engaged with your official **[Facebook/Twitter/Instagram/etc. (include as many as applicable)] page[s]**. On **[Insert Exact or Approximate Date of Incident]** I posted a comment on one of your posts where **[Describe your Comment; example: “I criticized your behavior during the last election.”]**. The post that I was responding to was about a matter that falls within your authority as **[official's title]** because **[explanation of why the official has authority over this issue.]** After **[Length of Time]**, **[my comment was deleted (and/or) I was blocked from your page]**. Since then, I have been deprived of the chance to respond to political posts, even though I hope to continue commenting on posts from your official social media pages in the future.

As a general matter, blocking users from accessing your official social media pages likely violates the First Amendment. While elected officials have a right to “exercise editorial control over speech and speakers” on their purely personal social media platforms, they generally do not have the right to block constituents from government social media pages, or to block individuals from responding to specific posts on their personal pages if the official was purporting to exercise their authority as an elected official in that post. *Lindke v. Freed*, 601 U.S. 187, 188, 144 S. Ct. 756, 759 (2024)

Though the First Amendment sometimes permits some “narrowly tailored” speech restrictions in government forums, a blanket ban “burden[s] substantially more speech than is necessary” to preserve your social media pages’ function as an organ of official communication. *Ward v. Rock Against Racism*, 491 U.S. 781, 791, 799 (1989). In any event, online **[posts/comments/etc.]** generally do not “interfere with the rights of other speakers” or prevent an official “from accomplishing its business in a reasonably efficient manner” so their **[deletion/removal/blocking]** is rarely, if ever, justified. *White v. City of Norwalk*, 900 F.2d 1421, 1426 (9th Cir. 1990).

Blocking users who make *critical* comments from accessing your social media pages constitutes viewpoint discrimination in an important and widely used forum, which represents a particularly egregious violation of the First Amendment. *Robinson v. Hunt Cty., Texas*, 921 F.3d 440, 447 (5th Cir. 2019) (holding that a government official’s act banning a constituent from an official government social media page was unconstitutional viewpoint discrimination); *Davison v. Randall*, 912 F.3d 666, 687-88 (4th Cir. 2019) (same); *see also Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829, 115 S. Ct. 2510, 2516, 132 L. Ed. 2d 700 (1995) (“When the government targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.”). This principle applies equally to the President of the United States as it does to mayors and city councilmembers. *See Knight First Amendment Inst. at Columbia Univ. v. Trump*, 982 F.3d 226, 237-38 (2d Cir. 2019), vacated as moot, *Biden v. Knight First Amendment Inst. at Columbia Univ.*, 141 S. Ct. 1220 (2021).

Choosing to simply delete critical comments, as opposed to entirely blocking accounts, is just as viewpoint discriminatory. *See Scarborough v. Frederick County School Board*, No. 5:20-CV-00069, 2021 WL419180, at *4-*5 (W.D. Va. Feb. 8, 2021). This is because, whether blocking or deleting, even minimal discrimination violates the First Amendment. *See Forsyth County, Ga. v. Nationalist Movement*, 505 U.S. 123, 136-37 (1992) (holding that variations in permit fees based on the content of speech, even when the fee is nominal, is unconstitutional).

Social media is increasingly the site of discussion of important social issues. As the Supreme Court recognized, “[w]hile in the past there may have been difficulty in identifying the most important places (in a spatial sense) for the exchange of views, today the answer is clear. It is cyberspace—the ‘vast democratic forums of the Internet’ in general . . . and social media in particular.” *Packingham v. N.C.*, 137 S. Ct. 1730, 1735 (2017).

And there can be no doubt that my criticism of your Office is protected speech. “[S]peech on public issues occupies the ‘highest rung of the hierarchy of First Amendment values,’ and is entitled to special protection.” *Connick v. Myers*, 461 U.S. 138, 145 (1983) (quoting *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982)). Indeed, such speech lies “at the heart of the First Amendment’s protection.” *First Nat’l Bank of Bos. v. Bellotti*, 435 U.S. 765, 776 (1978). Moreover, the First Amendment’s protection notably “include[s] vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

By blocking critical users or deleting their posts, your Office impermissibly discriminates against commenters based on the viewpoint of their speech. “When the government targets . . . particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant. . . . The government must abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995) (internal citations omitted).

Your Office must respect the constitutional rights of your constituents and cease **[deleting critical comments (and/or) blocking individuals]** who post constitutionally protected, critical comments on your official social media page[s]. For these reasons, I respectfully request that you and your staff immediately restore my unrestricted ability to view and interact with your social media posts. Please let me know within ten days of receiving this letter how you intend to handle this matter. If you have any questions or wish to discuss this issue with me, please feel free to contact me at **[Phone Number (and/or) Email Address]**.

Sincerely,

[Signature]

[Name]

[ATTACH SCREENSHOTS OF EVIDENCE ON THE NEXT PAGES]