



Know Your Rights 2025 First Amendment and Protesting

Last Updated: Jan. 27, 2025 1:40 pm

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What is the First Amendment?

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

What are the Five Freedoms protected by the First Amendment?

The First Amendment protects the freedom of **religion, assembly, speech, petition, association, and press.**

Can my free speech be restricted because of what I say – even if it is controversial?

No. The First Amendment prohibits restrictions based on the content of speech. But, the Constitution does not completely protect all types of free speech activity in every circumstance. Police and government officials are allowed to place certain nondiscriminatory and narrowly drawn "time, place and manner" restrictions on the exercise of First Amendment rights. Any such restrictions must apply to all speech regardless of its point of view.

Where can I protest and engage in free speech activities?

Generally, all types of expression are constitutionally protected in traditional "public forums" such as streets, sidewalks and parks. In addition, your speech activity may be permitted to take place at other public locations that the government has opened up to similar speech activities, such as the plazas in front of government building.

What about free speech activity on private property?

Owners of private property can set rules limiting your free speech in most instances. If you defy the property owner's rules, they can order you off their property (and can have you arrested for trespassing if you do not comply).

Do I need a permit before I engage in free speech activity?

Not usually, although certain types of events require permits. Generally, these events are:

- A march or parade that does not stay on the sidewalk
- Event that require blocking traffic or street closure
- A large rally requiring the use of sound amplifying devices; or
- A rally at certain designated parks or plazas

Many permit procedures require that the application be filed several weeks in advance of the event. Many permit ordinances give a lot of discretion to the police or city officials to impose conditions on the event, such as the route of a march or the sound levels of amplification equipment. Such restrictions may violate the First Amendment if they are unnecessary for traffic control or public safety, or if they interfere significantly with effective communication with the intended audience. A permit cannot be denied because the event is controversial or will express unpopular views.

Established law prohibits such an advance notice requirement from being used to prevent **"rapid response"** assemblies, rallies, or demonstrations due to unforeseeable recent events.

If organizers have not obtained a permit, where can a march take place?

If marchers stay on the sidewalks and obey traffic and pedestrian signals, their activity is constitutionally protected even without a permit. Marchers may be required to allow enough space on the sidewalk for normal pedestrian traffic and may not maliciously obstruct or detain passers-by.

May I distribute leaflets and other literature on public sidewalks?

Yes. You may approach pedestrians on public sidewalks with leaflets, newspapers, petitions and solicitations for donations without a permit. Tables may also be set up on sidewalks for these purposes if sufficient room is left for pedestrians to pass. These types of free speech activities are legal as long as entrances to buildings are not blocked and passers-by are not physically and maliciously detained. However, a permit may be required to set up a table.

Can government impose a financial charge on exercising free speech rights?

Some local governments have required a fee as a condition of exercising free speech rights. Charges that cover actual administrative costs have been permitted by some courts. Costs should not be increased because an event is controversial, or because a hostile crowd is expected.

Regulations with financial requirements should include a waiver for groups that cannot afford the charge. A group without significant financial resources should not be prevented from engaging in a march simply because it cannot afford the charges a municipality would impose.

Do counter-demonstrators have free speech rights?

Yes. Although counter-demonstrators should not be allowed to physically disrupt the event they are protesting, they do have the right to be present and to voice their displeasure. Police are permitted to keep two antagonistic groups separated but should allow them to be within the general vicinity of one another.

Does it matter if other speech activities have taken place at the same location?

Yes. The government cannot discriminate against activities because controversial content. Thus, if you can show that similar events to yours have been permitted in the past (such as a Veterans or Memorial Day parade), then that is an indication that the government is involved in selective enforcement if they are not granting you a permit.

What other types of free speech activity are constitutionally protected?

The First Amendment covers all forms of communication including music, theater, film and dance. The Constitution also protects actions that symbolically express a viewpoint. Examples of these symbolic forms of speech include wearing masks and costumes or holding a candlelight vigil. However, symbolic acts and civil disobedience that involve illegal conduct may be outside the realm of constitutional protections and can sometimes lead to arrest and conviction. Sitting in a road may be expressing a political opinion, for example, but the act of blocking traffic may lead to criminal punishment.

What should I do if my rights are being violated by a police officer?

It rarely does any good to argue with a street patrol officer. Ask to talk to a supervisor and explain your position to him or her. Point out that you are not disrupting anyone else's activity and that the First Amendment protects your actions. If you do not obey an officer, you might be arrested and taken from the scene. You should not be convicted if a court concludes that your First Amendment rights have been violated.