

FIRE's FAQ for Student Protests on Campus

Planning a campus protest—or already part of one? To help get to know your rights, here are some answers to questions we've seen come up time and again in over two and a half decades of defending students' right to free speech.

I go to a public college. Can I protest on campus?

Yes. Public universities are government entities bound by the Constitution and students on public campuses have [free speech rights](#) protected by the First Amendment. Depending on where, when, and how you protest, public universities can set some reasonable, narrowly-tailored limits on your protest, but they cannot limit the views you express. (More on “time, place, and manner” regulations below.)

I go to a private college. Can I protest on campus?

Probably. Even though private institutions are not required to honor constitutional rights (which only apply to government actors, like public universities), the vast majority of private colleges promise their students the right to free speech. Schools with a religious or military-related mission sometimes prioritize other values over free expression, meaning your rights at those schools may be more limited. Be sure to check your student handbook or FIRE's [Spotlight Database](#) to learn about your rights and your school's campus demonstration rules. If your college promises you the right to protest, you should insist the administration keep that promise.

Are all forms of protest protected?

The First Amendment protects your right to speak your mind with only [limited exceptions](#). But public colleges (and private ones with strong free speech protections) are allowed to maintain reasonable time, place, and manner restrictions on student speech in public areas of campus. These regulations must be viewpoint- and content-neutral rules on where, when, and how you can demonstrate on campus, in order to prevent disrupting the educational environment. Even in open, outdoor areas where campus protests are common, colleges might restrict some or all use of amplified sound, setting up tables or other structures, camping, and overnight protests. To be constitutional, those rules must apply to everyone, no matter their viewpoint and even when they're not trying to convey a message at all.

For example, a college can prohibit loud amplification near school buildings during hours that classes are in session. But the rule has to be applied even-handedly. The school can't allow the College Republicans to use a megaphone but forbid the College Democrats from doing so—or vice versa. Keep in mind that these rules also have to be reasonable. It's unlikely reasonable to, say, limit all demonstrations to a tiny corner of campus on weekdays between 4:00 p.m. and 5:00 p.m. to keep campus running smoothly.

What forms of protest are *not* protected?

The First Amendment does not protect unlawful conduct. If you engage in conduct while protesting that violates the law — such as violence, assault, vandalism, or underage drinking — you can face arrest and/or campus disciplinary proceedings. Other unprotected conduct (including speech) that can lead to arrest or disciplinary action includes:

- [True threats and intimidation](#)
- [Incitement](#)
- [Discriminatory harassment](#)
- [Substantially disrupting events or deplatforming speakers](#)

For a more detailed explanation of the First Amendment’s boundaries, check out [this article](#) by FIRE Legal Director Will Creeley.

Is civil disobedience free speech?

Civil disobedience is nonviolent unlawful conduct undertaken intentionally as a form of protest. Examples might include occupying a campus building or participating in a “die-in” that blocks traffic on a campus street. Acts of civil disobedience may strike onlookers as [powerful](#) because they reflect belief strong enough to violate existing law or policy. But students who engage in civil disobedience should realize that breaking the law — or campus policy — may result in consequences. And that price may include facing legal or institutional punishment by their college or university.

Can universities ban encampments?

Peaceful protest in open, outdoor areas of public university campuses is broadly protected by the First Amendment. Decades of court rulings [make clear](#) that a public university campus is a “traditional public forum”: a commonly accessible section of government property where expressive rights are at their height. Student protest on college campuses is a time-honored tradition.

But even in a traditional public forum like a university campus, the government can enforce reasonable [time, place, and manner regulations](#) on when, where, and how people protest.

Time, place, and manner regulations must meet [three criteria](#) to be constitutional. They must be:

- 1) “justified without reference to the content of the regulated speech,”
- 2) “narrowly tailored to serve a significant governmental interest,” and
- 3) “leave open ample alternative channels for communication of the information.”

(Source: *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293, 1984)

Whether time, place, and manner regulations are reasonable, and therefore constitutional, will be fact- and context-dependent in every instance.

For example, a university might properly regulate demonstrations so they don’t interfere with pedestrian or

vehicular traffic, or restrict the use of amplified sound so expressive activities do not interfere with classes in progress. Those are likely reasonable, viewpoint- and content-neutral provisions that serve a significant governmental interest (i.e., keeping traffic flowing or allowing classes to continue) while still allowing student speakers other means to spread their message.

Some time, place, and manner restrictions may restrict the types of encampments in which students occupy tents or other similar structures, particularly when they sleep overnight or occupy the structures for extended periods. Even when camping overnight is undertaken as expressive conduct intended to communicate a message as part of a demonstration, the Supreme Court has held that rules banning overnight sleeping on public land may constitute a reasonable regulation on the manner of demonstrating, so long as the restriction is content neutral and reasonable under the circumstances.

Universities may often be able to demonstrate legitimate public safety and security interests that justify banning camping.

Too many universities, however, mistake their ability to impose time, place, and manner restrictions as free rein to excessively regulate student demonstrations or target controversial speech. Regulating only groups with particular views, relegating speech to just one or two small or out-of-the-way areas of campus, requiring prior administrative approval for all expressive activity, or banning the expressive use of tents outright, will not meet the above criteria for constitutional time, place, and manner regulations.

Note: Private schools that make First Amendment-like free speech promises should follow these rules when implementing time, place, and manner regulations.

Do I give up *all* my free speech rights if I participate in civil disobedience?

No. Even though the police or college officials can remove or punish you for disruptive activity like blocking traffic or interrupting classes, they can't do so because they don't like your message or point of view. Keep an eye out for uneven enforcement of ostensibly neutral rules in ways that target only controversial speech.

For example, your college shouldn't punish you or your student group more harshly than other groups in similar circumstances because administrators found your message upsetting, offensive, divisive, or because it drew ire, demanded extra security, or prompted counter-protest. And even in cases where punishment is warranted, students remain entitled to [meaningful due process](#) rights.

How can the police respond to my protest?

The police must use proportional and reasonable force to disperse protests that cross into unprotected conduct, such as those that turn violent; violate the law; violate reasonable time, place, and manner restrictions; or are substantially disruptive.

Is my right to protest the same indoors as outdoors?

No. While outdoor areas of campus have been viewed as traditional public forums where speech is entitled to significant protection and fewer limitations, courts have not viewed indoor spaces the same way. Some institutions, through policy or practice, create limited public forums in certain indoor areas, but colleges typically have significantly more authority to regulate indoor spaces.

Because of concerns about disruption, noise, and even fire safety, colleges may generally impose more restrictive rules on what students can do inside buildings. By contrast, colleges have very little justification for suppressing a peaceful student protest on the quad or in other open, public areas of campus — and the law often backs up students in those circumstances.

Should I document what happens at our protest?

Yes! The authorities tend to be better behaved (in a legal sense) when video cameras are rolling. And if you are detained or arrested, a video can be the evidence you need to get out of the situation as fast as possible. Do all recording openly. Some states restrict recording that happens without someone's knowledge.

Should I insist on my rights while I'm protesting? Even if I'm told to leave?

Absolutely. Know your rights, insist they are respected, and be aware that you may be better educated on those rights than campus administrators or police.

For example, a number of public colleges across the country have policies limiting all demonstrations to small or out-of-the-way "free speech zones," even though these zones rarely hold up in court. Politely but adamantly insisting that you have the right to be somewhere may be effective, especially if you or a member of your group is recording the interaction.

What if I'm told I can't demonstrate without a permit?

You should be allowed to engage in expressive activities — like holding up a sign, leafleting, or petitioning for signatures — by yourself or in groups without a permit in outside areas of campus open to all students. If you are not disrupting classes or blocking people or traffic, your activity should be protected by the First Amendment or private colleges' similar policies.

Colleges sometimes have overly restrictive policies forbidding all expression without a permit, or policies against "solicitation" that they use to prevent all leafleting and petitioning. If you come across such policies, they may be unlawful, and you should [let FIRE know](#).

Can my school ban all protests?

Absolutely not. While public colleges (and private ones with strong free speech protections) may impose reasonable time, place, and manner restrictions on protests to ensure there is no disruption to the functioning of the college, these policies may not unreasonably restrict the right to peacefully protest.

For more on your campus free speech rights check out FIRE's Back to School: [Free Speech Basics resource page](#).



Have your rights been violated? We want to hear about it.
Submit your case to FIRE: thefire.org/submit

Have questions? Email us at fire@thefire.org