

# WELL TO RIGHT YOUR



# ACLU

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**Q: Do I have a right to picket on public sidewalks?**

A: Yes, and the Constitution prohibits requiring a permit for this type of activity. Picketing must be done in an orderly, non-disruptive fashion so that pedestrians can pass by and entrances to buildings are not blocked. Contrary to the belief of some law enforcement officials, pickets are not required to keep moving but may remain in one place as long as they leave room on the sidewalk for others to pass.

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

A: Not usually; however, certain types of events require permits. Generally, these events are: 1) a march or a parade that does not stay on the sidewalk and other events that require street closures; 2) a very large rally; and 3) activity which obstructs vehicle or pedestrian traffic.

Many permit procedures require that applications be filed with the police department well in advance of the event. However, a permit may be obtained on short notice if the event is organized in response to unforeseeable and recent occurrences.

**Q: May I distribute leaflets and other literature on public sidewalks?**

A: Yes. Pedestrians on sidewalks may be approached with leaflets, newspapers, petitions, and solicitation for donations. These types of free speech are legal as long as entrances to buildings are not blocked and passers-by are not physically detained. No permits may constitutionally be required.

**Q: Can my free speech rights be restricted because of what I want to say — even if it's controversial?**

A: No. The First Amendment prohibits restrictions based on the content of the speech. However, not all types of free speech activity are protected in every circumstance. Police and government officials are allowed to place certain non-discriminatory and narrowly drawn "time, place, and manner" restrictions on the exercise of First Amendment rights.

**Q: Can the government impose a financial charge on exercising free speech rights?**

A: Unfortunately, some courts have permitted charges that cover actual administrative costs or the actual costs of re-routing traffic. However, if controversy is used to apply higher costs — such as requiring a large insurance policy — then the courts will not permit it. Also, such regulations with financial requirements should include a waiver for groups that cannot afford the charge, so that all groups, regardless of their financial capacity, can exercise their free speech rights.

**Q: Do counter-demonstrators have free speech rights?**

A: Counter-demonstrators should not be allowed to physically disrupt the event they are protesting, but 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.

**ABOUT YOUR RIGHTS...**

The rights described in this "Your Right to Protest Brochure" are rights guaranteed by the U.S. Constitution. Government officials must honor them and may not pass laws that abridge them. Nevertheless, sometimes a legislative body may pass an unconstitutional law. If you believe that a statute or local ordinance is being used to restrict your freedom of speech, or if local officials are not respecting free speech rights, contact the ACLU of Maryland and we'll check into it.

**Q: Where can I engage in free speech activity?**

A: Generally, all types of expression are constitutionally protected in traditional "public forums" such as streets, sidewalks, parks, and plazas.

**Q: Can a speaker be silenced for provoking a crowd?**

A: Generally, no. Even the most inflammatory speaker cannot be punished for merely arousing the audience. A speaker can be arrested and convicted for incitement only if s/he specifically advocates illegal actions and only if those illegalities are imminently likely to occur.

**Q: Is heckling protected by the First Amendment?**

A: Although the law is not settled, heckling should be protected unless you are attempting to physically disrupt an event or are drowning out the other speakers.

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

A: In general, if groups of individuals stay on the sidewalk and obey traffic and pedestrian signals, their activity is protected. They may be required to allow enough space on the sidewalk for normal pedestrian traffic and may not obstruct or detain passers-by. It is always advisable to check with the city or the police to find out about permitting requirements.

**Q: What other types of free speech activity are constitutionally protected?**

A: 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 holding a candlelight vigil or wearing an armband.

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