



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 a decade and a half of defending students' right to free speech.

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

A: Yes. Public universities are government entities that are bound by the Constitution, so students on public campuses have free speech rights protected by the First Amendment.

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

A: Probably. Even though private institutions are not required to honor constitutional rights, most private colleges promise their students the right to free speech. Make sure to check your student handbook or FIRE's Spotlight Database (www.thefire.org/spotlight) to learn about the rights you've been granted and your school's rules on campus demonstrations. If your college promises you the right to protest, you should insist that the administration keep that promise.

Q: Can my school shut down our protest because they don't like what we're saying?

A: No. Under the First Amendment, you may not be censored or punished because of your opinion. This means that students have the right to express even the most controversial viewpoints. There are very limited exceptions to this rule—including threats to harm another person or inciting imminent violence or destruction of property—that can legitimately lead to arrest or disciplinary action under your school's student conduct code.

Q: Are all forms of protest protected?

A: No. While the First Amendment protects your right to speak your mind with only limited exceptions, public colleges are allowed to maintain reasonable time, place, and manner restrictions—in other words, viewpoint-neutral rules on where, when, and how you can demonstrate on campus—in order to prevent disruption of the educational environment. 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. A college does not need 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. If you suspect that your college's rules on the time, place, and manner of protest are unnecessarily restrictive, or that they don't treat all viewpoints similarly, get in touch with us at FIRE.

Q: Is my right to protest the same indoors as outdoors?

A: No. Because of concerns about disruption, noise, and even fire safety, colleges generally impose much more restrictive rules on what students can do inside a building than outside—and the law very



often backs them up. 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 very often backs up students in those circumstances.

Q: I want to occupy an administrative building. Can I do that?

A: If you do, be aware that you may be arrested or face punishment through your college's disciplinary process. The First Amendment does not protect civil disobedience—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. Such forms of protest may be a violation of criminal law (e.g., trespassing or disorderly conduct) or a violation of the student conduct code, so you should be prepared to face potential punishment from either or both systems.

Q: Can I get in trouble for other things while I'm protesting?

A: Yes. The First Amendment does not protect unlawful conduct. If you engage in conduct that violates criminal law—such as violence, vandalism, or underage drinking—while protesting, you can be arrested and/or face campus disciplinary proceedings.

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

A: No. Even though the police or college can remove and possibly 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 enforcement of apparently neutral rules in ways that discriminate against you based on your message. For example, your college should not 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, extra security, or counter-protest.

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

A: Know your rights and insist that they are respected, but also 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 that limit 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 on a cell phone. If you believe your rights have been violated, contact FIRE right away!

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

A: You should be allowed to engage in expressive activities—like holding up a sign, leafleting, or petitioning for signatures—by yourself or in small 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. But again, anticipate that you might know more about your rights than administrators. Colleges sometimes have overly restrictive policies that forbid all expression without a permit, or policies against “solicitation” that are used to prevent all leafleting and petitioning. If you come across such policies, you should let FIRE know right away!



Q: Should I document what happens at our protest?

A: 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 as fast as possible. Do all recording openly! Some states restrict recording that happens without someone's knowledge. Also, remember that video can help bring far more attention to your cause. It's easier for TV networks and Internet media outlets to put together a compelling story about you if they have video footage.

Do you think your rights have been violated on campus? Submit your case to FIRE:

thefire.org/submit

Have questions? Email us at fire@thefire.org