



Know Your Rights: Demonstrations and Protests in Michigan

General Guidelines

Do I have the right to protest?

Yes. The right to protest and express your opinions is one of the most basic and important rights in the United States. Peaceful protests play an important role in preserving democracy by raising awareness and bringing about change. Recognizing the historical and central importance of protests and demonstrations, the First Amendment of the U.S. Constitution protects your right to protest, assemble, and petition.

What types of protest are protected?

The First Amendment protects different forms of expression, including speech, participation in demonstrations and marches, music and other arts, distributing leaflets, picketing, and other forms of expressive speech such as carrying signs, a candlelight vigil or wearing T-shirts with messages. However, the Constitution does not protect civil disobedience that involves purposely violating a valid law to make a point. For example, while sitting in a road may be expressing a political opinion, the act of blocking traffic is illegal and may lead to arrest and punishment. Also, although the Constitution protects a very wide range of speech – including offensive speech—there are certain narrow exceptions where speech is not

constitutionally protected, for example, words likely to incite an immediate riot.

Where can I engage in free speech activity?

Your right to protest is strongest in traditional “public forums” such as parks, sidewalks and streets. The government may only place narrow, non-discriminatory “time, place and manner” restrictions on speech in such places. You may also be able to protest at other public locations that the government has opened up to free speech activities such as the plazas or steps in front of government buildings.

Can I participate in free speech activities on private property?

Yes, as long as the property owner consents. However, if property owners, including the owners of private shopping malls, ask you leave and you refuse, you could be charged with trespassing.

Can I erect a temporary shelter and stay on public property overnight during (or as part of) free speech activity?

It’s generally up to city and/or state officials. Most courts have held that cities may choose to bar protesters from erecting temporary shelters such as tents in public forums, and may also stop people from staying in these shelters overnight in order to protect the security, safety, access and aesthetic appearance of the

public space. The restrictions must still be reasonable in time, place and manner, and cannot foreclose all avenues of free speech. You should check the local ordinances and determine whether you are allowed to construct a temporary shelter and for how long.

May I approach pedestrians with petitions, leaflets or other literature on public sidewalks?

Yes. You have the right to approach pedestrians on public sidewalks and distribute material without a permit. However, you do not have the right to purposely block the path of pedestrians or block the entrances to buildings.

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

Not usually. However, certain types of events may require a permit, depending on the size and location of the event. These events generally include:

- A march or parade that does not stay on the sidewalk, and other events that require blocking traffic or closing streets;
- A large rally requiring the use of sound amplifying devices; or
- A large rally at certain designated parks or plazas that require permits. In some cases, cities ask that organizers apply for a permit weeks in advance of the event. However, if the protest is in response to an unforeseeable or recent event, the advance notice requirement cannot prevent the event from taking place. Police or city officials may also seek to impose conditions on the event, such as the sound level or route of the march. These restrictions may violate

the First Amendment if they are unnecessary for traffic control or public safety, or if they interfere significantly with effective communication. A permit cannot be denied because the event or views expressed will be controversial.

If the organizers did not obtain a permit, where can a march take place?

So long as 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 sidewalk space for pedestrians to pass by.

If you are organizing a protest or a march and want it to go smoothly, out of an abundance of caution, you may choose to inform the police ahead of time about the planned activity, even where a permit is not required.

Do counter-demonstrators have free speech rights?

Yes. While counter-demonstrators do not have a right to physically disrupt the event or drown out the speakers they are protesting, they do have the right to be present and to voice their displeasure within the vicinity of the demonstrators.

Interactions with the Police

Can the police search demonstrators or protesters?

The police are not permitted to search you unless they have reasonable suspicion that you were engaged in or about to commit a criminal act. If they do have reasonable suspicion, police officers are permitted to frisk your outer clothing to search for weapons.

Can the police search my backpack or purse?

Police officers may only search your bags if they have probable cause to believe that your bags contain weapons, contraband or evidence of illegal activity, such as drugs. In very limited circumstances, police may search your belongings if you are in a designated “secure area.” However, if the police mark out a secure area, they must allow you to refuse to have your bags/containers searched and must permit you to leave the area.

Do I have to show ID when the police demand it?

In general, no, you do not have to show ID if police demand it **unless** you are under arrest, being ticketed, or driving. You also have to identify yourself to police if (1) the police officers have reasonable suspicion to believe you violated the law **and** (2) there is a local law requiring that you show ID when the police have reasonable suspicion (as exists in Ann Arbor and East Lansing). You can ask police officers why they are asking for your ID and what will happen if you decline to provide it. In general, we advise you to provide your ID if you have it. However, undocumented immigrants should be aware that showing your ID may result in detention by immigration enforcement authorities (ICE).

Can I record or photograph the police in public?

Yes, you can record or photograph police officers who are performing their official duties in public.

What should I do if ordered to disperse?

Police officers can order a group to leave an area if it is violent or if it has gathered unlawfully—for example, if the size or location of the group required a permit and the group does not have one. Unless you want to be arrested, you should follow the order to disperse—even if you believe you are rightfully in a place where you are allowed to engage in free speech activities and/or that your activities are not creating a disturbance.

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

It is rarely productive to aggressively confront or resist a police officer. You should ask to speak to a supervisor and explain your position to her or him that the First Amendment protects your actions. We advise that you follow the police order and then write down what happened as soon as possible (including the police officers’ names, badge numbers, patrol car numbers, etc.). If you believe your rights were violated by the police, contact the ACLU by filling out a complaint form on our website, www.aclumich.org, or calling 313-578-6800.

The ACLU of Michigan has also published a Know Your Rights pamphlet that explains your rights if you are stopped by the police, the FBI, or immigration agents. The pamphlet is available for download at:

<http://www.aclumich.org/sites/default/files/bustcard%20%28%29.pdf>