

# The First Amendment and Airports

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# The First Amendment

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“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.”

– United States Constitution  
Amendment I

# Basics

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Government cannot regulate to suppress the views of a particular speaker.

- Permit standards must be neutral.
- Regulations must be viewpoint neutral.
- Regulations may address “whether the manner of expression is basically incompatible with the normal activity of a particular place at a particular time.”
  - City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750 (1988)
  - Ward v. Rock Against Racism, 491 U.S. 781 (1989).

# Government Property

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- The U.S. Supreme Court evaluates places on government property using a “forum analysis.”
- A “forum” is what the speaker seeks to access.
- The U.S. Supreme Court has discussed these types:
  - Traditional Public Forum
  - Designated Public Forum
  - Limited Public Forum
  - **Nonpublic Forum**

# Nonpublic Forums

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- Are **reserved** for intended purposes or functions.
- May restrict speech activities and speakers (not views) when restrictions are **reasonable to preserve the purposes served by the forum** (its nature and function):
  - Teacher mailboxes could be reserved for school-related use. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).
  - A federal charity drive could be reserved for health and welfare charities. *Cornelius v. NAACP Legal Defense and Educ. Fund, Inc.*, 473 U.S. 788 (1985).

# Speech at Airports

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- “Much **nondisruptive speech** . . . is still protected”
    - Bd. of Airport Comm’rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569 (1987)
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- Airport “terminals are **nonpublic fora.**”
  - “[R]easonableness . . . must be **assessed in light of the purpose of the forum** . . . the characteristic nature and function of the particular forum involved.”
    - Int’l Society for Krishna Consciousness, Inc. v. Lee, 505 U.S. 672 (1992)

# Airport Protests

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- Other commonly upheld restrictions:
  - Speech zones
  - Prohibitions on using objects, such as picket sticks
  - Limitations on group size
  - Prohibitions on voice amplification
  - Other restrictions consistent with a forum's limitations

# More Information

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J. Howick, REGULATIONS AFFECTING THE EXERCISE OF FIRST AMENDMENT ACTIVITIES AT AIRPORTS, Transportation Research Board, Airport Cooperative Research Program Legal Research Digest 26, 2015

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