

KNOW YOUR RIGHTS: PUBLIC COMMENT PERIODS

Many city councils, school boards, and other government bodies hold open meetings that include time for public comment. When they open the floor to the public, they must comply with the First Amendment.

That's because in the United States, "debate on public issues should be uninhibited, robust, and wide-open" — even when it includes "vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." (*New York Times Co. v. Sullivan, 1964*)

YOU CAN SPEAK YOUR MIND...

- Government officials can't silence you because of your point of view or because they disagree with you. That's viewpoint discrimination, and it's unconstitutional.
- Criticism is protected speech — even if it's harsh or uncomfortable. That includes criticism of government bodies, public officials, public employees, and others.
- Government officials can't censor you for expressing an "offensive" view. Offensiveness is subjective, and it is a "bedrock principle underlying the First Amendment" that officials cannot restrict speech simply because some find it "offensive or disagreeable." (*Texas v. Johnson, 1989*)
- Using strong language doesn't mean losing your rights. Absent actual disruption, so-called "incivility" doesn't strip your speech of constitutional protection.

BUT SOME RULES MAY APPLY.

- In most cases, government officials can restrict speech during public comment only when those restrictions are (1) viewpoint-neutral and (2) reasonable in light of the public comment period's purpose. For example, it's probably constitutional for a government body to impose fair time limits on comments or to allow only comments relevant to government business or agenda items.
- But even legitimate restrictions must apply consistently. Officials can't selectively enforce rules against speech they oppose — for example, strictly enforcing time limits against only those speakers critical of government.
- Government bodies can prohibit speech that falls outside the First Amendment's protection, including true threats and speech that incites immediate violence.
- They can also ban truly disruptive conduct, such as speaking beyond the time limit or shouting over others' comments.

BOTTOM LINE: Public meetings are a cornerstone of democracy. Government officials can't silence you simply because they don't like what you have to say. The essence of our free society is that members of the public can freely voice their opinions, including those critical of the government.

