Institute for
Constitutional Advocacy and Protection
GEORGETOWN LAW

Protecting and Preserving the Public Meeting Space: Relevant Constitutional Principles

Public meetings of city councils, school boards, and library boards have become battlegrounds over hot-button cultural and political topics. During contentious debates, individuals may seek to disrupt proceedings, undermining the ability of government officials to hear from their constituents and even at times resulting in intimidation or violence. Government officials have a responsibility to preserve the public meeting as an efficient tool for governance and a safe forum for productive discussion of issues of public concern by an engaged citizenry. This guidance provides relevant legal principles and practical solutions to protect and preserve public meeting spaces in a manner consistent with the Constitution.

Can governments limit the topics to be discussed at public meetings?

Yes. Meetings where members of the public come to share their opinions—like city council meetings or town halls—are generally considered "limited public forums" under the First Amendment. In a limited public forum, the government may restrict discussion to specific topics so long as that limitation is "reasonable and viewpoint neutral."[1] In other words, while a government official may cut off a speaker when the speaker strays from addressing the topic on the meeting agenda, she cannot restrict a speaker from talking because she does not agree with the speaker's opinion on a particular topic at issue.[2]

What are other constitutional limits on speakers at public meetings?

The First Amendment does not guarantee the right to communicate one's views "at all times and places or in any manner that may be desired."[3] In addition to limiting comments to particular topics, government officials in charge of public meetings may impose reasonable content-neutral time, place, and manner restrictions on participants' speech, so long as the restrictions "are narrowly tailored to serve a significant government interest" and "leave open ample alternative channels for communication."[4] In general, courts have recognized "a significant governmental interest in conducting orderly, efficient meetings of public bodies" that justifies reasonable time, place, and manner restrictions.[5]

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[1] *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the Law v. Martinez*, 561 U.S. 661, 679 (2010); *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829–30. (1995); *see also City of Madison, Joint School Dist. No. 8 v. Wisconsin Emp. Relations Comm'n*, 429 U.S. 167, 175 n.8 (1976) ("Plainly, public bodies may confine their meetings to specified subject matter and may hold nonpublic sessions to transact business.").

[2] *E.g.*, *Youkhanna v. City of Sterling Heights*, 934 F.3d 508, 519-20 (6th Cir. 2019); *Norse v. City of Santa Cruz*, 629 F.3d 966, 975 (9th Cir. 2010); *Jones v. Heyman*, 888 F.2d 1328, 1332 (11th Cir. 1989).

[3] *Heffron v. Int'l Soc'y for Krishna Consciousness*, 452 U.S. 640, 647 (1981).

[4] *Ward v. Rock Against Racism*, 491 U.S. 781, 791 (1989).

[5] *Rowe v. City of Cocoa*, 358 F.3d 800, 803 (11th Cir. 2004).

When assessing whether a restriction leaves open ample alternative channels for communication, the government need provide only a "reasonable opportunity" for speakers to reach their intended audience,[6] not necessarily the speakers' preferred or "most effective" means of communication.[7] Thus, courts have treated as sufficient alternatives to unlimited speech in a public meeting the opportunity to circulate flyers or publish comments in local newspapers;[8] an option for submitting written comments for the record;[9] and the chance to contact officials directly.[10]

Time limits: Courts have upheld time limits on each individual's public comments as a content-neutral restriction on speech that serves a "significant governmental interest in conserving time and ensuring that others have an opportunity to speak."[11] Limits of three to five minutes per speaker generally have been upheld as constitutional.[12] Courts have also upheld rules that reserve a specific portion of the meeting for public comments.[13]

Registration of speakers: Courts have upheld requirements that those who wish to speak at a public meeting must sign up in advance. A registration requirement, including, for example, the speaker's name and intended topic, serves the government's significant interests in "reserv[ing] time for individuals who are most likely to follow through and participate in the meeting" and "ensur[ing] that those who truly want to participate are not denied the opportunity to do so."[14]

Restrictions on loud or disruptive speech: Where a speaker causes an actual disturbance of a public meeting, an official may stop the speaker from talking or remove the speaker from the meeting entirely.[15] Disruptive activity during public meetings such as yelling, whistling, or stamping feet may be specifically prohibited.[16] Courts have also upheld officials' decisions to interrupt a speaker who refuses to abide by a time limit or is excessively repetitive; to turn off a disruptive speaker's microphone; or to remove speakers who interrupt proceedings, speak out of turn, or otherwise violate rules of order.[17] In extreme cases where a speaker repeatedly engages in unruly and disruptive behavior, governments may be allowed to temporarily ban them from future meetings.[18] There must, however, be actual disruption; potential disruption is generally insufficient to support removing a speaker from a public meeting.[19]

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[6] *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41, 54 (1986).
[7] *Galena v. Leone*, 638 F.3d 186, 204 (3d Cir. 2011).
[8] *Shero v. City of Grove*, 510 F.3d 1196, 1203 (10th Cir. 2007).
[9] *Wright v. Anthony*, 733 F.2d 575, 577 (8th Cir. 1984).
[10] *Lowery v. Jefferson County Bd. of Educ.*, 586 F.3d 427, 434 (6th Cir. 2009).
[11] *Wright*, 733 F.2d at 577.
[12] *E.g.*, *id.* (five minutes); *Shero*, 510 F.3d at 1203 (three minutes).
[13] *E.g.*, *Kindt v. Santa Monica Rent Control Bd.*, 67 F.3d 266, 271 (9th Cir. 1995).
[14] *Ison v. Madison Local Sch. Dist. Bd. of Educ.*, 3 F.4th 887, 896 (6th Cir. 2021). Any such pre-registration requirement, however, may not give the government "unbridled discretion" to deny permission to speak. *See Barrett v. Walker County Sch. Dist.*, 872 F.3d 1209, 1229 (11th Cir. 2017).
[15] *White v. City of Norwalk*, 900 F.2d 1421, 1424-25 (9th Cir. 1990); *id.* at 1426 ("A speaker may disrupt a Council meeting by speaking too long, by being unduly repetitious, or by extended discussion of irrelevancies. The meeting is disrupted because the Council is prevented from accomplishing its business in a reasonably efficient manner.").
[16] *See, e.g.*, *Acosta v. City of Costa Mesa*, 718 F.3d 800, 816 (9th Cir. 2013) (citing one such policy approvingly).
[17] *See, e.g.*, *Lowery*, 586 F.3d at 433-34; *Steinburg v. Chesterfield County Planning Comm'n*, 527 F.3d 377, 390 (4th Cir. 2008); *Eichenlaub v. Twp. of Ind.*, 385 F.3d 274, 281 (3d Cir. 2004).
[18] *See, e.g.*, *Vega v. Chi. Bd. of Educ.*, 338 F. Supp. 3d 806, 812-13 (N.D. Ill. 2018) (upholding removal and temporary ban on repeatedly disruptive speakers at school board meetings as a content-neutral time, place, and manner regulation where the speakers could still meet with board member during office hours and submit written testimony to the board).
[19] See, e.g., *Acosta*, 718 F.3d at 811; *Norse v. City of Santa Cruz*, 629 F.3d 966, 976 (9th Cir. 2010).

Bans on signs and banners: Courts have upheld bans on signs or banners in public meetings, even if they pertain to the topics on the agenda. Restrictions on signs and banners limit "visually disruptive" activity and avoid "interference with the decorum of the meeting."[20]

Can governments prevent speakers from name-calling or engaging in personal attacks against government officials?

Maybe. Courts are divided on whether governments may ban "abusive" statements or "personal attacks" by speakers at public meetings. The Fourth Circuit, for example, has upheld such a policy, finding a ban on "personal attacks" to be viewpoint neutral and "necessary to further the forum's purpose of conducting good business."[21] On the other hand, the Sixth Circuit has struck down a school board's prohibition on "abusive, personally directed, and antagonistic" statements as impermissible viewpoint discrimination, relying on two recent decisions by the Supreme Court that held that government restrictions on disparaging or offensive trademarks constitutes discrimination based on viewpoint and therefore are presumptively unconstitutional.[22]

Can governments limit speakers to residents of the locality?

Yes. Courts have upheld against Equal Protection Clause challenges regulations that limit the class of permitted speakers at a city council meeting to residents of the city. Such challenges are subject only to rational-basis review, and courts have concluded that such restrictions reasonably restrict participation in the meeting "to those individuals who have a direct stake in the business of the city."[23]

Can governments ban weapons and firearms at public meetings?

Probably. In *New York State Rifle & Pistol Association v. Bruen*, the Supreme Court recognized that certain locations like "schools and government buildings," as well as "legislative assemblies, polling places, and courthouses," historically have been considered "sensitive places" where banning firearms is constitutional.[24] This list is not exhaustive. It is therefore likely that policies restricting firearms at school board meetings, local government councils, or state legislative sessions do not violate the Second Amendment, although these issues remain to be decided by lower courts. Local governments, moreover, must be aware of state laws that preempt local firearms regulations, which may control whether firearms can be banned in particular places.[25]

This guidance was prepared by the Institute for Constitutional Advocacy and Protection (ICAP) at Georgetown University Law Center. ICAP's mission is to use strategic legal advocacy to defend constitutional rights and values while working to restore confidence in the integrity of governmental institutions. Connect with ICAP at www.law.georgetown.edu/icap/, reachICAP@georgetown.edu, or @GeorgetownICAP.

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[20] *E.g.*, *Tyler v. City of Kingston*, 74 F.4th 57, 64-65 (2d Cir. 2023).
[21] *Davison v. Rose*, 19 F.4th 626, 635-36 (4th Cir. 2021) (quoting *Steinburg*, 527 F.3d at 387).
[22] *Ison*, 3 F.4th at 894-95 (citing *Matal v. Tam*, 582 U.S. 218 (2017), and *Iancu v. Brunetti*, 139 S. Ct. 2294 (2019)).
[23] *Rowe*, 358 F.3d at 803-04.
[24] 142 S. Ct. 2111, 2133 (2022) (internal quotation marks omitted).
[25] *See generally* Giffords L. Ctr., *Preemption of Local Laws*, https://giffords.org/lawcenter/gun-laws/policy-areas/other-laws-policies/preemption-of-local-laws/.