

## ACTIVISM ACTIONS

### 1 Advocate as a private citizen, not for your employer

The First Amendment limits the government's ability to suppress speech. It protects (i) public employees who speak (ii) in their private capacities, (iii) on their own time, (iv) about matters that concern the public, against improper censure by the government – **it does not constrain private employers from disciplining employees for their public speech.** Public employees include, e.g., federal agency workers, public university professors, and sometimes others who receive government funding.<sup>1</sup>

#### Here's how to be smart about your activism:

- **Do** ask your employer whether it has a stance on your activism issue. Consider joining their endeavor.
- **Do** review your employee handbook or speak to HR about employer expectations. Ask questions like, "Am I allowed to speak about this issue on behalf of my institution?" "Am I allowed to speak about the activism or demonstrations while at work?"

#### Do distinguish work from personal activism.

- **Do** organize and discuss activism outside of the workplace and work hours, even if conversing with work colleagues.
- **Don't** use work or government-funded supplies to prepare for such activities, e.g., use your personal or non-work email, computer, printer, etc.
- When demonstrating, **don't** wear work paraphernalia, e.g., a university hat or a work-issued lab coat.
- **Don't** provide your work affiliation when publicizing your involvement in advocacy. If you must for identification purposes, clarify that you do not speak on behalf of your institution. Consider this if you provide an interview, sign a petition, or post on a blog or social media.

<sup>1</sup> For more information, see Jeannette Cox, "A Chill Around The Water Cooler: First Amendment In The Workplace" at [bit.ly/firstamendworkplace](http://bit.ly/firstamendworkplace)

For more information about advocating for science and the Climate Science Legal Defense Fund, visit [www.csldf.org](http://www.csldf.org), where you can:

- Review CSLDF's "**Pocket Guide for Scientists**," at [www.csldf.org/pocketguide/](http://www.csldf.org/pocketguide/)
- Review CSLDF's "**Research Protections in State Open Record Laws**" at [www.csldf.org/resources/50-state-report/](http://www.csldf.org/resources/50-state-report/)
- Read CSLDF's blog
- Join the CSLDF mailing list to be updated on future guides
- Contact us directly at [lawyer@csldf.org](mailto:lawyer@csldf.org)

For more information about knowing your rights and the American Civil Liberties Union visit [www.aclu.org](http://www.aclu.org), and check out guides like these:

- "Know Your Rights: Demonstrations And Protests," [www.aclu.org/sites/default/files/field\\_pdf\\_file/kyr\\_protests.pdf](http://www.aclu.org/sites/default/files/field_pdf_file/kyr_protests.pdf)
- "Know Your Rights: What To Do If Your Rights Are Violated At A Demonstration Or Protest," [www.aclu.org/know-your-rights/what-do-if-your-rights-are-violated-demonstration-or-protest](http://www.aclu.org/know-your-rights/what-do-if-your-rights-are-violated-demonstration-or-protest)
- Non citizens should visit [www.nipnlg.org/tools.html](http://www.nipnlg.org/tools.html)

**This pamphlet concerns U.S. laws only and does not constitute specific legal advice.** If you have legal questions regarding a particular circumstance, please call your lawyer or contact CSLDF directly.

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## KNOW YOUR RIGHTS

### SCIENTIFIC ACTIVISM & PROTESTS

The First Amendment to the U.S. Constitution protects "the freedom of speech," as well as "the right of the people peaceably to assemble," also known as the right to demonstrate. **Different limitations to your rights may apply depending on whether you work for the government or a private institution.** This guide can help you make sure your activism activities are constitutionally protected.

## TAKEAWAYS

- **Do** separate work and personal advocacy or activism.
- When demonstrating: **don't** wear work paraphernalia; **do** bring cash, ID, and medication; **do** memorize essential phone numbers.

Thank you to the American Civil Liberties Union (ACLU) for guidance in creating this pamphlet, and for allowing us to adopt parts of ACLU's published materials.

## 2 Public funding – can your email be made public?

Open records laws<sup>2</sup> allow members of the public to request information from public employees (see definition in Part 1), such as asking for copies of work records and work-related emails — even those on a personal email account.

If you are a federal employee, state university employee, or a private employee who uses government grants, you may be subject to state open records laws or the federal Freedom of Information Act (FOIA).

- **Always** maintain distinct personal and professional email accounts to protect against your personal emails being made public pursuant to open records laws.
- **Don't** advertise activism efforts on your government-funded site, e.g., on a Twitter account related to a National Science Foundation-funded research project.

## DEMONSTRATIONS

### 3 How to demonstrate

Peaceful and non-obstructive demonstration is constitutionally protected even without a permit.

- **Do** obey traffic signals and keep a lane for non-demonstration pedestrian traffic on the sidewalk. Demonstrators should not maliciously obstruct or detain passersby.
- **Do** use cardboard tubes for posters; **don't** use sticks (which may be considered weapons).
- If you are organizing it, **do** get a permit to notify police about your activities and reserve your location. Rules and procedures vary; review your city's official website.

<sup>2</sup> For more information, see CSLDF's "Research Protections in State Open Record Laws" at [www.csldf.org/resources/50-state-report/](http://www.csldf.org/resources/50-state-report/)

## PREPARE FOR THE IMPROBABLE

### 4 In case of arrest

- **Do** carry cash, essential medication in its original bottle, and an official, accurate, and valid form of identification, such as a driver's license.
- **Do** make emergency childcare plans.
- **Do** disable any fingerprint scan on your phone; **do** lock your phone with a strong and unique password or code.
- **Do** memorize or write with permanent marker on your arm the phone numbers of friends, family, or your lawyer.

### 5 Know your circumstances, and possible consequences

- **Not a U.S. citizen?** Know your immigration "A" number (if you have one). For additional guidance, visit [www.nipnlg.org/tools.html](http://www.nipnlg.org/tools.html)
- **Undocumented, under court supervision, or have a record?** Consequences can be worse for you than for other people! Discuss the risks of arrest with a local lawyer.
- Have a disability, special medical needs, or limited English proficiency? Carry a card or wear a bracelet to explain your situation.

#### IF YOU FEEL YOUR RIGHTS HAVE BEEN VIOLATED

Police misconduct can't be challenged on the street, but can be later on. **Try to record the incident on your phone or write down everything you can**, e.g., badge and patrol car numbers, the officer's agency, and contact information of witnesses. Take photos of any injuries (but seek medical attention first!). Keep all official paperwork and receipts for medical treatment. Then file a **written** complaint with the agency's internal affairs division or civilian complaint board. Contact an attorney for additional help.

### 6 Law enforcement: dos & don'ts

**Note:** some state laws may vary.

#### WHEN INTERACTING WITH POLICE

- **Do** stay calm and be polite.
- **Do** keep your hands in plain view.
- **Do** feel free to videotape officers; it's legal as long as you're not so close to them as to be interfering.
- **Do** ask, "**Am I free to leave?**" If the officer says yes, calmly and silently walk away. If the officer says no, ask, "**Am I being detained?**" or "**Am I under arrest?**" and "**For what crime?**"
- **Don't** make sudden movements or point at the officer.
- **Don't** touch the officers or their equipment.

#### WHEN BEING QUESTIONED

- **Do** say your name, address, and "**I wish to remain silent**" — and repeat if questioning continues.
- **Do** try to memorize the officer's badge number.
- **Don't** reveal information based on police promises.
- **Don't** lie to the police or provide fake documents.

#### WHEN BEING SEARCHED

- **Know** that police officers are permitted to "pat down" your outer clothing if they suspect a weapon.
- **Do** say, "**I do not consent to this search,**" if the police try or ask to search you, your car, or your belongings.
- **Don't** physically resist a search or struggle; if you do, you can be charged with assault.

#### WHEN BEING ARRESTED

- **Do** say, "**I wish to remain silent. I want a lawyer.**"
- **Do** give your name and address if asked.
- **Don't** resist, even if you believe the arrest is unfair.
- **Don't** give explanations or excuses.

#### AFTER ARREST

- **Do** make a local phone call (some states provide a right to a call only if you are held overnight).
- **Do** read all papers fully before signing. Ask for an interpreter or lawyer if necessary.
- **Note:** Arraignment is when you learn the charges against you. Arraignment is not trial.