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## Legal Resources for Digital Media



## Access to Public Property

The U.S. Constitution protects your right to speak and, in some instances, grants you a right to access public places to gather information. Your right to access public property is not absolute, however. Generally speaking, you have the same right of access to public property as the general public.

This section covers your access to public (i.e. government-owned) property. (Refer to the section on [Access to Private Property](#) for more information on entering privately owned property.) Not all government-owned property is open to the general public. Depending on the type of property you wish to enter, your right to access public places may be constrained by reasonable time, place, or manner restrictions, or by the government's interest in managing its property.

Here is an overview of the three types of public property you are most likely to encounter:

### **Property That Historically Has Been Open to the Public**

Your right to access public property is strongest when the area you wish to access has historically been open to the public for the exercise of speech, public debate, and assembly. These areas are known as **public forums** and include spaces such as **sidewalks, parks, and town squares**. You may freely enter and gather information while in these public spaces, but you should do so without disturbing the peace or interfering with those around you. Your right of access does not confer immunity from all liability if your conduct is disruptive or harassing.

### **Property That Is Open to the Public for a Limited Purpose**

Your right to access government-owned property that is only partially open to the public is a bit more limited. If the general public is permitted to access only certain areas or for certain limited purposes, your right to access the property for newsgathering purposes is similarly limited. For example, some parts of a courthouse are open to the general public, but portions of the courtrooms themselves are accessible only by the parties in the litigation and judges' chambers are completely off limits to the public.

However, some public property, even though it is open only for limited purposes, can take on the attributes of a public forum discussed above. A classic example of this type of property is **public schools and universities**. Although public school and university buildings are not wholly open to the public, some parts of a campus may be considered a public forum. If a school's large open quad is accessed from public sidewalks and streets and freely used by the general public with no apparent objection from the school administration, then the quad may be considered "dedicated" to public use, and therefore more like the traditional public forums of the public park and sidewalk. Additionally, if the school opens certain of its rooms for non-school meetings that are open to the public, those rooms, during those times, will be treated as public forums.

Remember that because public schools are not entirely public forums, school administrators often have the discretion to restrict the entry of outsiders, particularly while the school is in session. Check in with the school administration before entering school grounds or you may be liable for [trespass](#). Additionally, some states laws prohibit people from loitering within a certain distance while school is in session. These "school loitering laws" are mainly aimed at keeping sexual predators and drug dealers away from schoolchildren, but be aware that their language may be broad enough to cover lawful or innocent activity as well.

### **Property That Is Not Open To the Public**

You cannot access or gather information on government-owned property that is not open to the general public. This type of property is known as a **nonpublic forum** in which the government can charge you with [trespass](#) if you enter without authorization. The following are examples of nonpublic forums:

- An **airport terminal** is a nonpublic forum. See [International Society for Krishna Consciousness v. Lee](#), 505 U.S. 672 (1992). The Supreme Court has noted that airports are "among those publicly owned facilities that could be closed to all except those who have legitimate business there." [United States v. Grace](#), 461 U.S. 171, 178 (1983).

- Government-owned **civic centers, stadiums, or theaters** used for private commercial purposes are not public forums. When the government leases a convention center, the private lessee may legally exclude individuals who want to report on newsworthy events. The event coordinators may even grant exclusive media coverage rights to a particular media outlet and deny access to others who want to cover the event (or at least deny them access in their capacities as journalists).

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