

Free Speech: Trump Administration Rescinds Planned Anti-Protest Rules

Trump Administration Admits Defeat

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In an extraordinary victory for the people, the Trump Administration has announced that it is fully withdrawing its massive anti-democratic plan to block free speech and assembly through proposed regulations that would have crushed protest on federal land in the nation's capital.

As the Partnership for Civil Justice Fund was preparing to meet the Trump Administration head on in court to challenge the regulations as unconstitutional, the National Park Service announced that they could not surmount the public and legal opposition they faced and will not move forward with their plans, withdrawing them *in their entirety*.

“Faced with a far-reaching constitutional rights lawsuit and a groundswell of grassroots opposition to the proposed NPS regulations, the Trump White House has abandoned its dangerous efforts to eviscerate mass protest in the nation's capital,” stated Mara Verheyden-Hilliard, constitutional rights lawyer and executive director of the Partnership for Civil Justice Fund. “The Trump administration's outrageous plan was met with the very force they were trying to suppress — the power of the people. Today is a huge victory in defense of the Constitution and cherished freedoms,” Verheyden-Hilliard stated.

The proposed regulations would have criminalized and restricted fundamental First Amendment rights. Trump's plan would have made people pay for the right to protest. They planned to charge people for the right to demonstrate on our public spaces including costs and fees so high that no grassroots group could ever afford to do so. They planned to shut down the iconic White House sidewalk to protest, making it off limits. They planned to enact new restrictions and waiting periods for permit applications that would make it impossible to organize a demonstration, including eliminating the 24-hour “deemed granted” rule. They planned to ban any sustained vigil or protest forcing evictions at 30 days. Had this plan succeeded it would have been a model for repressive regulations and legislation nationwide.

The Partnership for Civil Justice Fund first exposed Trump's new plan with a line-by-line legal analysis of his proposed rules and sounded the alarm, including through an OpEd in the Washington Post, “*The Trump Administration Wants to Tax Protests. What Happened to Free Speech?*” In rapid-response, PCJF then led a national organizing, education and outreach campaign bringing together organizations and grassroots groups across the country in opposition and providing a breakdown of the nearly-100 page proposal available for public dissemination, as well as a platform for the submission of comments.

This broad coalition included organizations that focus on different struggles and communities but who joined together in a robust, collective and uncompromising defense of fundamental First Amendment rights upon which all of us rely. This included civil rights, labor, climate justice, women's rights, LGBTQ, immigration rights and anti-war organizations among many others. This initiative and principled, united coalition work resulted an astounding response from the public — more than 140,000 comments were submitted into the formal rule-making record.

In addition to preparing and filing detailed and substantive legal comment in opposition, and helping other organizations do the same, the PCJF prepared for litigation to immediately seek an injunction and stop the rules from taking effect.

Rather than take a low-hanging fruit approach and attack only some portions of the Trump Administration's massive proposed-rulemaking, we undertook a comprehensive challenge with the intention to strike it in its entirety. Having worked on the frontlines with grassroots organizations seeking access to public space for more than two decades, we recognized that cherry-picking would allow provisions to take effect that would cause enormous damage to the ability of people to assemble and speak out in D.C. It is this uncompromising strategy pursued by the groups in coalition that made the difference and resulted in the remarkable complete and total retreat by the Trump Administration.

The PCJF used the comment process to build the administrative record on which the case would be litigated, including submitting substantive legal challenges and affidavits into the record that addressed myriad parts of the Trump proposal, as well as dozens of iconic protest images and videos. Among the affidavits in the record were ones from Cleve Jones, the organizer behind the concept and the display of the AIDS Quilt; Kim Propeack of CASA, the immigrant rights organization; Brian Becker of the Act Now to Stop War & End Racism Coalition; and John Boardman of UNITE HERE Local 25, all of whom have vast experience organizing protests on federal land in Washington, DC and could speak directly to the material and unconstitutional impact different components of the proposed regulations would have on the capacity of people to exercise their First Amendment rights.

This is the administrative record that the administration was not able to overcome and which forced it to withdraw its regulatory proposal in its entirety.

The Partnership for Civil Justice Fund has successfully brought constitutional rights litigation against the National Park Service including obtaining a federal injunction forcing the NPS to administer its permitting system in a constitutional manner – the same system at issue here. It has also successfully litigated police misconduct claims against the federal Park Police department resulting in changes to policy and practices in the handling of demonstrations. The Trump Administration sought to overturn decades of civil rights litigation with a massive regulatory overhaul, much of which defied prior federal court rulings and the Constitution.

As a candidate, President Trump said he'd like to punch protesters and have them carried out on stretchers, and he regularly encouraged violence at his rallies. As President he has continued his assault on the First Amendment attacking NFL players who peacefully protest for civil rights, called the media "enemy of the people," and said "I think its embarrassing for the country to allow protesters." Acting on that hostility towards free speech and dissent his administration sought to block protesters from public forums in the nation's capital.

Notably, the legal department behind this proposal at Trump's Department of the Interior is currently headed by a Koch industries insider who has been placed there. The Koch brothers have been at the forefront of efforts to suppress people's movements and democracy through their funding of ALEC to push anti-protest legislation across the U.S.

The regulations proposed by the Trump administration would have:

- imposed steep fees and costs on demonstrations in Washington, D.C.
- effectively banned protests on the iconic White House sidewalk
- forced protesters to pay the costs of barricades erected at police discretion, park ranger wages and overtime, and harm to grass from standing on it
- created waiting periods removing any obligation of the government to promptly process or approve permits and eliminating the current 24 hour "deemed granted" rule'
- restricted and suppressed spontaneous demonstrations that respond to breaking events
- created hair-triggers that allow police to end protests for the most minor of issues
- restricted sound and staging
- banned long-term vigils or protest presences criminalizing protests that last more than 30 days
- made protesters pay for expensive "turf covers," among many other radical restrictions of free speech rights

These changes would have affected all parkland under the National Park Service (NPS) in the nation's capital including the National Mall, Lafayette Park, the White House Sidewalk, Lincoln Memorial, the Ellipse, Freedom Plaza and the sidewalks and parkland along Pennsylvania Avenue — including the sidewalk in front of the Trump Hotel.

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