



MEMORANDUM

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Prolife Apparel in Federal Buildings

The First Amendment to the United States Constitution protects an individual's right to free speech. This freedom is not without limitations. The Supreme Court established three different forums to establish a balance for speech: traditional public forums, designated forums, and nonpublic forums. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

Federal buildings are considered nonpublic forums. Nonpublic forums are areas that do not fall under traditional public forums nor designated forums. In these forums, the government is permitted to impose certain restrictions on speech so long as the restrictions are reasonable and do not discriminate based on viewpoint. *Minn. Voters All. V. Mansky*, 138 S. Ct. 1876 (2018). Viewpoint discrimination is when speech is restricted based on the particular views taken by a speaker. *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819 (1995).

In short, forcing a visitor to cover up or remove their prolife attire, or kicking out a visitor for wearing prolife attire, is viewpoint discrimination. The Supreme Court calls it an "egregious form of content discrimination." *Id.* at 829. Federal buildings open to the public cannot force a visitor to remove an article of clothing that states his or her beliefs when the building allows another visitor to wear clothing on the same issue but from a different viewpoint. Every individual has the right to express their viewpoint. Restrictions on that right are unconstitutional and the ACLJ is ready to protect that speech.