

**T**he American Civil Liberties Union (ACLU) of Hawai'i realizes that individuals may want to participate in activities in response to the *Rice v. Cayetano* United States Supreme Court decision. The ACLU is providing, as a public service, this brochure about your right to protest.

The First Amendment of the Bill of Rights, part of the United States Constitution, protects the right of *all* voices to be heard as well as the right of the people to gather peacefully and ask their government to take action regarding their concerns.

Courts have said government can set some rules regulating these activities if it is necessary to protect public safety or prevent major conflict in the community. This brochure does not answer all the questions regarding speech and protest rights but is only a general guideline. Contact the appropriate government agency for rules about the use of specific areas. If you feel your rights have been violated, call the ACLU at 808.522.5900.

**U**a 'ike nō ka American Civil Liberties Union (ACLU) o Hawai'i nei, ua makemake paha kekahi mau kanaka e kōkua i nā hana e pili ana i ka 'ōlelo ho'oholo e pili ana iā *Rice v. Cayetano* mai ka 'Aha Ho'okolokolo Ki'eki'e o 'Amelika Huipū. Ua hā'awi 'ia kēia palapala e ka ACLU iā 'oukou i hiki iā 'oukou ke 'ike i kou kuleana no ka ho'okū'e'ana.

Pale ka Ho'ololi 'ōlelo pāku'i mua o ka Palapala kuleana, he mahele o ke Kumukānawai o 'Amelika Huipū, i ko kākou kuleana no ka 'ōlelo kū'e a me ko kākou kuleana no ka ho'ākoakoa maluhia o nā lehulehu e ninau aku i ke aupuni e ho'ohana e pili i ko kākou mau 'i'ini pono.

Ua ha'i nā 'aha ho'okolokolo, hiki nō i ke aupuni ke ho'okō i kekahi mau kānawai e 'ike pono i kēia mau hana inā nele ka lehulehu i ka palekana 'ole. 'A'ole i pane kēia palapala i nā ninau a pau e pili i nā kuleana 'ōlelo a me nā kuleana kū'e, akā he alaka'i wale nō. Kāhea ke ke'ena aupuni pono no nā kānawai no kēia mau mea. Inā ua 'a'e kou mau kuleana pono, kāhea i ka ACLU ma 808.522.5900.

### 1. *What speech activities are protected by the First Amendment?*

Making speeches, handing out leaflets, rallies, carrying posters, demonstrating.

#### 1. *He aha nā kuleana 'ōlelo i pale 'ia e ka Ho'ololi 'ōlelo pāku'i mua?*

'O ka 'ōlelo ākea, ka hā'awi aku i nā palapala, ka 'ākoakoa lehulehu, ka hapai o nā ki'i ho'olaha, a me ka hō'ike ākea o nā 'i'ini pono o nā lehulehu.

#### 2. *Where can we pass out leaflets or hold a rally, march or demonstration?*

Generally, on any public sidewalk, park, or other traditional public area. Expressive activity is allowed in these public forums so long as it does not interfere too much with the rights and activities of others (example: demonstrators may not block pedestrians or traffic). Government can regulate how these activities take place but not on the basis of their content or message.

#### 2. *Aia i hea kākou i hiki ai ke hā'awi aku i nā palapala a i 'ole 'akoakoa, naue i nā lehulehu?*

Ma ke ala hele wāwae lehulehu, nā pāka, a me nā wahi lehulehu like 'ole. Hiki nō ke ha'i 'ōlelo a pelā aku ma kēia 'ano wahi inā 'a'ole kēia mau hana i hō'alo i nā kuleana a me nā hana o nā kanaka 'ē a'e. (E like me kēia, 'a'ole hiki ke pale i nā ala hele wāwae lehulehu i hiki 'ole i nā kanaka a pau ke hele ma kēlā ala hele wāwae lehulehu.) Hiki i ke aupuni ke ho'oponopono i kēia 'ano hana, akā, 'a'ole hiki i ke aupuni ke pale i nā leo o nā kanaka.

### 3. *What is a "public forum"?*

- A location generally open to the public and used for the communication of views on political and social issues (example: streets, sidewalks, parks, public plazas, or the areas outside public auditoriums, stadiums, courts, and legislative buildings).
- Where the activity does not overly interfere with the normal use of the location.
- A location related in some way to the activity, such as being the actual or symbolic target of the protest

(example: unemployed workers marching around the unemployment office).

*Note:* Courts have ruled that certain public forums can be closed to all speech activity due to their "special functions", such as a military base. A location may also allow leafleting but may prohibit other activities such as rallies or picketing.

#### 3. *He aha ia mea he 'aha lehulehu?*

- 'O ia nō kekahi wahi i wehe 'ia no ka lehulehu a i ho'ohana 'ia no ke kūkā kama'ilio o nā mana'o e pili i ke kālai'aina a me nā mea pili kanaka. ('O nā alanui, nā ala hele wāwae, nā pāka, nā wahi lehulehu, nā wahi i waho o nā kahua lehulehu, nā kahua pā'ani, nā 'aha, a me nā hale 'aha kau kānawai.)
- 'O nā wahi i pale 'ole ka hana i ka hana ma'amau o kēlā wahi.
- 'O nā wahi i pili i ka hana i kū'e 'ia e ka lehulehu. 'O ia nō ka wahi kumu o ka 'ākoakoa kū'e. (E like me kēia, naue nā kanaka hana 'ole i ke ke'ena hana i kipaku i ia mau kanaka.)

Eia: Ua ho'okō nā 'aha ho'okolokolo, 'a'ole hiki ke 'ākoakoa a 'ōlelo lehulehu i kekahi 'ano wahi, e like me ka hale pūkaua. Hiki paha i kekahi mau wahi ke 'ae i ka hā'awi aku a hā'awi mai i nā palapala, akā, hō'ole i nā hana 'ē a'e, e like me ka naue lehulehu, a me ka hapai 'ana i nā ki'i ho'olaha.

### 4. *What about schools, universities and lobbies of public buildings?*

Lobbies are not always open to speech activities. However, if they are made available for political campaigning, artistic performances, etc., they must be made available for other similar speech activities.

Government can say "no" to protest activities by non-students on sidewalks, streets or other places near primary and secondary schools while they are in session if they interfere with school activities (too much noise, too many people). Most times, protest activities on the public areas of state university property are entitled to broad First Amendment protection.

4. *Pehea i nā kula, nā kula nui, a me nā lumi ho'okipa o nā hale lehulehu?*

'A'ole i wehe nā lumi ho'okipa no kēia 'ano hana kū'ē i nā manawa a pau. Akā, inā wehe kēia 'ano wahi no ka hana kālai'aina, hō'ike no'eau, a pēlā aku, pono nō kēia mau wahi e ho'ohana i ka hana 'ē a'e e like me ka hana 'ōlelo ākea.

Hiki i ke aupuni ke hō'ole i ka hana kū'ē i hana 'ia e nā haumāna 'ole ma nā ala hele wāwae, nā alanui, a me nā wahi like 'ole kokoke i nā kula ha'aha'a a me nā kula ki'eki'e i ka manawa o ka a'o 'ana aku i nā ha'awina i nā haumāna, a ke'ake'a i ia hana kū'ē i ka hana kula (Nunui ke kulikuli, nunui nā po'e). 'O ka hapanui o ka manawa, hiki ke hana kū'ē ma nā wahi lehulehu o nā kula nui, no ka mea ua pale kēia hana mai ka Ho'ololi 'ōlelo pāku'i mua.

5. *What about private property?*

If persons engage in speech activities on private property against the wishes of the owner, they may be subject to arrest and prosecution. Please check with management of shopping centers and malls prior to engaging in speech activities there.

5. *Pehea i nā 'āina waiwai pono'i?*

Inā ho'ohana i kekahi mau po'e i ka hana 'ōlelo ākea ma kekahi mahele 'āina waiwai pono'i me ka 'ae 'ole o ka haku o kēlā 'āina, hiki ke hopu 'ia i ia mau po'e. Kama'ilio me nā luna o nā hale kū'ai ma mua o kou hana 'ōlelo ākea ma kēlā 'ano wahi.

6. *Do we need to get a permit?*

In some locations, you need to get a permit before holding rallies or demonstrations that go over a specific number of participants. Courts have said that some permit requirements are permissible to ensure public safety and peacefulness. Permit requirements, however, must be specific and cannot distinguish between groups or speakers. Check with local government agencies if you need a permit. If you have trouble getting one, contact the ACLU at 808.522.5900.

6. *Pono kākou e ki'i i kekahi palapala 'ae?*

I kekahi mau wahi, pono e ki'i i kekahi palapala 'ae ma mua o ka 'akoakoa o nā lehulehu i pākela ma luna o kekahi helu kanaka. Ua ho'okō nā 'aha ho'okolokolo, ua pono e loa'a ka palapala 'ae i hiki ke pale i ke olakino a me ka maluhia o nā lehulehu. Akā, pono e 'ike pono nā mea a pau e pili i ia hana ma ka palapala 'ae. Kama'ilio me nā 'elele o kou aupuni loko inā pono 'oe e ki'i i kekahi palapala 'ae. Inā 'a'ole hiki iā 'oe ke loa'a kekahi palapala 'ae, kāhea i ka ACLU ma 808.522.5900.

7. *What about marches?*

Most times, marches are allowed on public sidewalks, streets or other places. Government may regulate the time, place and manner of the event to avoid traffic jams, accidents, etc. Please check if you need a permit.

7. *Pehea i ka naue?*

I ka hapanui o ka manawa, hiki ke naue ma ke ala hele wāwae lehulehu, alanui, a pēlā aku. Hiki i ke aupuni ke ho'oponopono i ka manawa, ka wahi, a me ke 'ano o ia hana i hō'alo i ka pa'a o nā ka'a ma ke alanui, ka hana 'ino, a pēlā aku. E 'imi, inā pono 'oe e ki'i i kekahi palapala 'ae.

8. *What should I do if confronted by a police officer?*

First, do not argue. Be courteous. Ask to talk to the officer in charge and explain that you are not disrupting anyone else's activities and that your activity is protected by the First Amendment. If you do not obey an officer, you can be arrested and taken from the scene. You will not be convicted if a court later says your First Amendment rights were violated. If you are arrested under these circumstances, contact the ACLU at 808.522.5900.

8. *He aha ka'u hana inā kū kekahi māka'i i ko'u alo?*

'O ka mea mua, mai ho'opāpā. Hana maika'i a 'olu'olu. E ninau aku inā hiki ke kūkā kama'ilio me ka luna māka'i a ha'i iā ia, 'a'ole 'oukou hana 'ino i nā kuleana o nā kanaka 'ē a'e, a pale 'ia kā 'oukou hana e ka Ho'ololi 'ōlelo pāku'i mua. Inā 'a'ole 'oe lohe i ka māka'i, hiki i ka māka'i ke hopu iā 'oe. 'A'ole 'oe i 'āhewa 'ia, inā koho ka 'aha ho'okolokolo, ua 'a'e kou kuleana i pale 'ia e ka Ho'ololi 'ōlelo pāku'i mua. Inā ua hopu 'ia 'oe e like me ka 'ōlelo ma luna, kāhea aku i ka ACLU ma 808.522.5900.

## Your Right to Protest

## 'O kou kuleana no ka ho'okū'ē 'ana

In Response to the United States Supreme Court Decision *Rice v. Cayetano*

He pane i ka 'ōlelo ho'oholo e pili ana iā *Rice v. Cayetano* mai ka 'Aha Ho'okolokolo Ki'eki'e o 'Amelika Huipū

Provided as a public service by the  
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