



The Commonwealth of Massachusetts

William Francis Galvin, Secretary of the Commonwealth
Elections Division

SOLICITATION OF SIGNATURES IN PUBLIC PLACES

Both the United States and Massachusetts Constitutions protect the right to solicit signatures on nomination papers and ballot question petitions in a reasonable and unobtrusive manner in open public areas. This includes the public areas of municipal property as well as the common areas of privately owned shopping centers. Distribution of printed material in connection with signature solicitation is also protected. The right of signature solicitation (along with other free-speech activities) on municipal sidewalks, in parks and in similar open public areas is clear. Hague v. CIO, 307 U.S. 496, 515-16 (1939).

Public Areas of Privately Owned Shopping Centers:

The state Supreme Judicial Court has provided guidance specifically to those persons gathering signatures in privately owned shopping centers. Batchelder v. Allied Stores International, Inc., 388 Mass. 83, 445 N.E.2d 590 (1983). Although the Batchelder Court ruling was limited to gathering signatures on candidates' nomination papers, this standard also applies to gathering signatures on initiative and referendum petitions, under the Massachusetts Constitution. Mass. Const. amend art. 48. Shopping centers may adopt reasonable regulations that require signature gatherers to identify themselves, prevent them from harassing customers and obstructing pedestrian traffic, and allocate space and times among different groups of petitioners. It is therefore suggested that solicitors contact the management company of a privately owned shopping center to arrange for a mutually convenient time for such activity.

Municipal Property:

In Batchelder the Supreme Judicial Court held that Article 9 of the Massachusetts Constitution protects the right to solicit signatures, and to distribute related printed material, in the common areas of privately owned shopping centers, subject to reasonable regulations. At least the same amount of protection must apply on municipal property that is regularly open to the general public for municipal business. Therefore, ballot-access and nomination paper signature solicitation must be allowed on municipal property that is regularly open to the general public for municipal business, subject only to reasonable time, place and manner regulations.

Please do not hesitate to contact Michelle K. Tassinari, Legal Counsel, at 617.727.2828 or 1.800.462.VOTE for more information on the right of individuals to gather signatures in public places.

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SOLICITING SIGNATURES ON NOMINATION PAPERS AND BALLOT QUESTION PETITIONS AT SHOPPING CENTERS

The Massachusetts Constitution protects the right to solicit signatures on candidate nomination papers and ballot question petitions, in a reasonable and unobtrusive manner, in the common areas of privately owned shopping centers. Distribution of printed material in connection with signature solicitation is also protected.

Shopping centers may adopt reasonable regulations that require petitioners to identify themselves, prevent them from harassing customers and obstructing pedestrian traffic, and allocate space and times among different groups of petitioners.

However, the Secretary advises that shopping centers may not:

- require petitioners to give significant advance notice (more than 24 hours).
- substantially limit the days and times when petitioning can occur.
- prevent petitioners from actively soliciting signatures in a reasonable area. For example, petitioners may not be restricted to standing behind a table or booth.
- require petitioners to have insurance coverage, agree to assume liability, or make a deposit of money.
- discriminate in favor of or against any group of petitioners.

The above advice by the Secretary of the Commonwealth, the chief elections officer of Massachusetts, is based in part on a 1983 decision by the state Supreme Judicial Court and on later court cases. Petitioners should notify shopping centers before soliciting signatures, and should try to resolve problems with shopping center managers before contacting the Secretary's Election Division.

In the Secretary's view, failure to allow petitioners the rights outlined above violates the state constitution. In addition, interference or attempted interference with these rights by threats, intimidation, or coercion violates the state civil rights law, which provides for money damages and attorney's fees. Petitioners or the state Attorney General may obtain a court order against any violations.

For more information or assistance, please contact: Elections Division, Office of the Secretary of the Commonwealth, One Ashburton Place, Room 1705, Boston, MA 02108, telephone (617) 727-2828 or 1-800-462-VOTE.