



# Know Your Rights Guide: Countering Initiative Petition Signature-Gatherers

---

A number of people have asked us: “If we see someone soliciting signatures for an initiative we strongly oppose, what can we do to discourage people from signing?” This paper provides some guidance.

## **The Golden Rule**

Everything we need to know about opposing signature gatherers we learned in kindergarten: No touching, no shouting down the other person, be civil.

## **Do the petition gatherers have a right to ask for signatures?**

Yes, gathering signatures for petitions is a basic First Amendment right. A property owner can often limit activity on their property, but unless you are that owner, you cannot prevent others from circulating petitions there. If the signature gatherer is on public property, and they are blocking traffic or otherwise interfering with people, there may be local laws that regulate them. But that is a matter for the police, not private citizens, to enforce.

## **What laws control what I can do in opposing signature gatherers?**

Basically, all the laws that would control your getting into an argument with someone about which football team is best also apply – no disturbing the peace, no unconsented touching, etc. With petitions, however, there is one specific law, RCW 29A.84.250(4), which makes it a gross misdemeanor if a person “Interferes with or attempts to interfere with the right of any voter to sign or not to sign an initiative or referendum petition or with the right to vote for or against an initiative or referendum measure by threats, intimidation, or any other corrupt means or practice”.

## **Do the petition gatherers need a permit? Does an opponent?**

Generally, petition gatherers do not need a permit to pass out literature or give a speech in public places like sidewalks or city parks. Those places are considered “traditional public forums” where free speech rights are protected the most. Courts consider public places that have historically been open to public expression and assembly to be “traditional public forums.” While cities are allowed to regulate the time, place, and manner of speech in some ways (such as limiting noise), any such regulations must be reasonable and cannot be based on the content of the speech. You can assume that any place a petition gatherer can be, you can be also, but that you are also subject to any time, place and manner regulations. Large, actions, such as organized marches or demonstrations will often require permits.

## **Can I try to speak with people before they get to the signature gatherer?**

If you contact the passers-by before they start interacting with the petitioner, it is fine to say “Before you consider signing that petition, please let me tell you the problems it creates” or something similar. You may not, however, block their way or interfere with their approaching the signature gatherer.

## **What about after the gatherer has started their pitch?**

Even then you can probably ask the individual to listen to your side before signing, but you can’t shout down the gatherer or force yourself between the member of the public and the gatherer.

**What if the gatherer tells me to get away from them?**

If they are on public property (i.e., not on private property with approval from the owner), you have just as much right to exercise your free speech as they do theirs. You can stand right next to them with your request that the public listen to both sides before deciding. You may, however, want to lead an interested person a few steps away if they engage with you so you don't directly interfere with the gatherer.

**What is most likely to get me in trouble or limit my ability to make my case?**

The thing most likely to get you in trouble is getting into a noisy (or even physical) altercation with the petition gatherer. As both a legal and a tactical strategy, keep your cool. If the petition gatherer starts getting noisy, stay calm yourself. Ignore them if necessary, and concentrate on connecting with the public. The public respects people who keep their cool. If the petition gatherer physically touches you, you have the right to ask law enforcement to tell them to stop; while technically it is an assault, don't expect any charges for minor touching.

**Are there any special rules for shopping malls?**

The Washington Supreme Court has held that individuals have a right under the Washington state constitution to gather signatures on petitions in large shopping malls, but not on the private property around large stores such as Walmart.<sup>1</sup> We assume that if a petition gatherer can be present, an opponent can also, but courts have not ruled on this specific issue. If you are asked to leave, you might respond by asking to see the specific mall rule that is being invoked; but unless you are prepared to risk arrest, you should comply with the request. Leave when they ask you to and then consult with your organization to decide what course of action is best. In addition, most malls specify where activities such as signature gathering can take place. You should assume that the same restrictions apply to opposing the initiative.

**Can a store owner let someone gather signatures in the store but not allow the opponents in?**

Yes. Government cannot discriminate between different types of speech based on content, but private parties can restrict activities in their stores and parking lots. Except in the case of the regional shopping mall (as noted above), a store owner might allow in a petition gatherer and not allow an opponent. Again, however, you should ask to see any written policies, document what happened to you, and then consult with your organization. It might be simply the action of the store manager, and the very act of revealing it may be more beneficial to your work than a confrontation.

May 2017

---

<sup>1</sup>*Alderwood Assocs. v. Wash. Env. Council*, 96 Wn.2d 230, 635 P.2d 108 (1981); *Southcenter Joint Venture v. Nat'l Democratic Policy Comm.*, 113 Wn.2d 413, 780 P.2d 1282 (1989); *Initiative 172 v. Western Wash. Fair Assoc.*, 88 Wn. App. 579, 945 P.2d 761 (1997); *Walmart Inc. v. Progressive Campaigns, Inc.*, 139 Wn.2d 623, 989 P.2d 524 (1999).