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Election officials suggest guidelines on proper petition conduct

LINCOLN – Nebraska Secretary of State John Gale and Douglas County Election Commissioner Dave Phipps expressed concern about the growing intensity of the debate over the proper conduct of recall petition circulators and “persuaders” being utilized by recall opponents.

“From what I hear, there is concern that possible contention between recall circulators and persuaders might chill the effort of citizens to vote in their voting precincts,” Phipps said. “There is enough concern that I think we need to suggest some guidelines for the benefit of citizens who are potential signers, as well as for the circulators and persuaders.”

As election officers, Gale and Phipps said their role is to monitor what is happening, but their offices do not have any law enforcement divisions to investigate complaints.

However, election district supervisors and election judges at each precinct are trained to be first responders to citizen complaints. In Omaha, citizens can call 444-VOTE. If a situation escalates, then the Omaha Police Department will be notified. The Omaha Police Department is notified of each precinct location in case of problems.

“What we are seeing is part of a phenomenon in recent years in petition circulation in Nebraska, but it is not new in other areas of the country,” Gale said.

“With the appearance of opponents of petition drives on the sidewalks and public places along with the petition circulators, we have a clash of First Amendment rights,” he said. “Unfortunately, Nebraska citizens are getting caught in the middle and are wondering what is going on.”

The election officials said their suggested guidelines for conduct are based on previous guidelines issued for past elections and good Nebraska common sense:

--Circulators have the right under state law and the First Amendment to address citizens and seek signatures on their recall petitions. They are not violating anyone's right of privacy by asking citizens to sign their petitions.

--Circulators are required to follow state laws on how they approach citizens. They must read the object statement for each petition they present to citizens for signing. They are required to allow citizens to read the statement language if the citizens ask to do so. Each petition should indicate whether the person is a paid or volunteer circulator.

--Both recall petition circulators and persuaders should remain more than 200 feet from any polling site building. This would include any parking lots within that area. Violations should be reported to 444-VOTE or to the election judges.

--A citizen coming or going from a polling site may ignore both the circulators and persuaders. The citizen should have the right of unobstructed passage.

--Circulators and persuaders should not yell at each other or at potential signers or be visibly disagreeable. Acting disagreeable in the presence of citizens who are at the location to vote in the general election may chill the interest of the citizen in voting.

--There should be no use of bullhorns or other amplified speaking. There should be no efforts to drown out the message of the other side.

--Circulators and persuaders should definitely not touch anyone else or damage or steal property of the other side, nor of any citizens.

--Circulators and persuaders should not flood any voting precinct area with people to physically obstruct pedestrian traffic to achieve their goals. Remember citizens are gathering there to vote in the general election and have the absolute right to do so without harassment.

--Common courtesy should prevail at each location. This means that a circulator should be allowed to read the object statement and the persuader should be allowed to deliver the "stop, think and read" message without interruption, and answer any questions. Then, should the potential signer wish to talk with just one of the parties, that conversation should also be conducted without interruption from the other side. The parties should remain at least an arm's length away from each other.

--If any party becomes physical, such as pushing or touching, such conduct may be a criminal law violation. Such acts should be reported to 444-VOTE or to the election judge at the polling site, and if necessary to the Omaha Police Department. The same is true with regard to extreme conduct, such as loud and hostile shouting, anger or use of foul language, which can constitute assault under the law and should likewise be reported.

--It is illegal for a circulator to offer anything of value to a signer, as well as illegal for a signer to accept anything of value for their signature on a petition.

"If we would just use common sense and good manners, we wouldn't experience any extremes of conduct," Gale said.

"If circulators and persuaders conduct themselves the way Nebraska fans conduct themselves with opposing teams and opposing team spectators, we would be honoring and respecting each other's constitutional rights, as well as allowing for fair and reasonable discussion of the recall issues at stake with the petitions," Phipps added.

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