

CALIFORNIA DEMOCRATIC PARTY VOTER SERVICES COMMITTEE

Registering Democratic Voters: Best Practices and Helpful Hints

This guide is intended to help grassroots Democratic organizations set up and staff voter registration tables in order to increase the number and percentage of registered Democratic voters in California. Registering Democrats must be an ongoing effort: not only are people constantly moving into this state and coming of voting age, but 10% of the population moves every year as well. Democrats should have an organized voter registration drive starting several months before every election—or, better, year-round

This guide is a cooperative effort among veterans of Democratic Party voter registration drives. It is envisioned as an ongoing project; additions and corrections are encouraged. Please send correspondence to Kasey Carlson at Kasey@cadem.org

These topics make up this guide:

- Who Can Register to Vote; Who Must Re-register
- Where to Register Democrats
- Setting up the Voter Registration Drive
- Setting up the Venue
- Recruiting Volunteers for Tabling
- Coordinating Volunteers
- Going over the Voter Registration Form
- At the Table: Speaking with Voters
- At the Table: Helping People Register to Vote
- At the Table: Voter Questions and Problems
- Tabling Equipment: Small Venues
- Tabling Equipment: Large Venues (Street Fairs)
- Mailing the Forms, Thanking Volunteers, and Keeping Records
- Appendix A: Pruneyard Decision
- Appendix B: Sample Event Evaluation Form
- Appendix C: Sample Volunteer Certificate of Appreciation
- Appendix D: Sample business cards (“Remember, if you move, you will need to Re-register...”)
- Appendix E (landscape): Five Great Reasons to Vote Absentee; Important Dates
- Appendix F: Sample Booth Setup Illustrations, Annotated

Who Can Register to Vote; Who Must Re-register

If any information on a voter's registration form (technically, affidavit) has changed—such as the voter's address, name, or the political party the voter chooses—the voter must fill out and submit a new form. Even if a voter has only moved next door, s/he should re-register.

Any resident of California who has not yet registered and is of voting age can register to vote. A person who turns eighteen on or before Election Day is eligible to register to vote. Anyone not in prison or on parole is eligible to register. (States differ in this matter.)

The deadline for submitting voter registration forms to vote in a particular election is 15 days before that election. To determine the exact time, contact your county's Registrar of Voters/Elections Office. Usually, the form must be in the office BY 5:00pm (close of business) on the day of the deadline, which is typically the Monday two weeks before Election Day.

Where to Register Democrats

California law states that people who register voters must not refuse anyone who wishes to register. We cheerfully register anyone who comes up to our tables, and we provide the same information to anyone who asks.

However, signs such as "Democrats Register Here" are perfectly legal. Note that Republicans have had such signs for at least 30 years.

It's not our purpose to register Republicans; they can handle that themselves. Besides using the sign mentioned above, we set up voter registration tables in areas where Democrats are likely to outnumber Republicans.

It is legal to set up a voter registration table on sidewalks and other pedestrian thoroughfares. Typically, for a farmer's market, we can set up on the sidewalk alongside it or across from it, where foot traffic merits. It is also legal to table in venues such as shopping malls (see Appendix A) but you must work cooperatively with the shopping mall manager, who frequently restricts tabling to a certain number of hours per month and might also restrict the size of accompanying signs.

Some suggestions:

- **Farmer's markets:** see "Setting up the Venue" for details
- **Street fairs:** especially in towns with predominantly Democratic registration: see "Setting up the Venue" for details
- **New citizen swearing-in ceremonies:** typically, on the sidewalk outside, and not inside the building; sometimes all you can do is hand out information on the party before they go in; frequently the League of Women Voters does the voter registration inside, or it's done during the ceremony
- **Various stores:** grocery stores (including ethnic food stores), hardware stores, bookstores, or coffee houses in Democratic neighborhoods; some big-box stores like Ikea, Target, even Wal-Mart; some malls
- **Entertainment venues:** concerts and book signings by left-of-center artists and authors (Bruce Springsteen, Molly Ivins, Al Franken etc.); openings of films likely to draw Democrats and other liberals (*Fahrenheit 911* and *An Inconvenient Truth* are good examples)
- **Educational Institutions:** college free-speech areas; high schools (you have to go through channels and probably cannot be overtly partisan for these); consider also helping set up school/college Democratic clubs
- **Other:** job fairs, people looking for jobs are frequently new residents

Remember the main rules for tabling in a public right-of-way: We must not block the walkway and we must not harass people.

NOTE: If you have entrée to community organizations, such as ethnic groups or houses of worship, where you believe the majority would register Democratic, work with them to get people registered.

Of course, activists have voter registration forms and permanent absentee ballot applications in their cars at all times. Make sure that people working on voter registration with you are similarly equipped.

Precinct operations usually include registering any unregistered voters in the Democratic households that are contacted—or even targeting the unregistered voters in a neighborhood. In these operations, permanent absentee voting should be recommended heavily at all times.

Setting Up the Voter Registration Drive

Some organizations, such as county central committees, will have a voter registration and/or volunteer coordinator. They will also have a treasurer to collect any donations. Please coordinate and set-up a plan to identify who should be in charge of processing the voter registration cards and who should be getting the donations and keeping overall records. It is important to straighten out the lines of authority and communication before you start tabling. It is a very good idea to keep track of the number of Democrats the organization registers. It is PARAMOUNT to keep track of all volunteers—all contact information, and all activity.

At certain times, the California Democratic Party gives a bounty for each Democrat registered. The party contacts the county central committees when the bounty goes into effect, and sends instructions. When the bounty is in effect, the voter registration leads must make photocopies of the affidavits for Democrats, and turn them in to the person coordinating the organization's voter registration drive.

You can obtain voter registration forms in bulk (50 copies or more) at your county Registrar of Voters/Elections Office. You may have to sign for them and give an organization name and contact.

Setting up the Venue

Small venues (at farmer's markets; in front of stores):

- It's a good idea to introduce yourself to the person in charge, particularly at a store. Make sure to emphasize that you are registering voters, and that you not deny anyone who wants to register.
- Make sure that you are going to be on public property (the sidewalk); some sidewalks are part of the store's private property.
- Besides your table, consider bringing an easel on which you have eye-catching information, or setting up a post to which you have stapled signs (such as LAST WEEKEND TO REGISTER for the NOVEMBER X ELECTION). These devices attract people who might be apprehensive about approaching the table, and can serve to ease them over to it.
- Avoid using trees, existing signs, etc. for your materials; make sure you don't block or cover up signs (e.g., parking lot informational signs).

Large venues (street fairs):

1. Preferably before the season starts, make a spreadsheet of all street fairs in your county. For each street fair, determine dates and times; location, including parking; registration fees; and contact information for the sponsor.
2. Decide which street fairs to cover.
3. Contact the responsible party for the street fair; determine the fee and what you get for the money. Some street fairs do not allow political organizations; in these cases you might be able to set up on a nearby sidewalk.
4. In cases where you are not buying a booth or table, scope out the street fair for the location with the best foot traffic, or consult with someone familiar with that street fair about a location.

In each case, try to set up chairs so that the public can't look over the shoulder of the voter who is registering.

Recruiting Volunteers

Recruit tabling volunteers from Democratic clubs and other organizations. If necessary, ask to get on the club agenda and make a pitch; bring a clipboard with signup sheets, listing dates and shift times. Try to get a club to "own" a particular tabling venue or annual event (e.g., street fair).

Presidential election years get high numbers of volunteers. Try to have regular voter registration training sessions at your headquarters during these times. Make sure to sign people up for specific shifts at specific sites right after each training session ends. During other years, don't be disappointed if the volunteer involvement is not as intense! But aim for a year-round effort—or the closest you can get to it.

Volunteers need not be voting age; they need not even be citizens.

As with all volunteer recruitment:

1. Make it clear that the commitment is for a specific time and place—it is not an open-ended, ongoing obligation.
2. Let them know that we provide training, and that we table in pairs.
3. Explain that the volunteer is not responsible for knowing every last detail of every ballot proposition; we have literature and websites to refer people to.
4. Note that we are providing a valuable service; people are grateful and express this gratitude.
5. Stress that voter registration and face-to-face contact with voters are KEY to winning elections and emphasize that their time will make a difference; some of these citizens would not otherwise be able to vote, and we are the reason they can do so.

Coordinating Volunteers

Schedule at least two people for every shift; in larger venues such as busy street fairs you might need at least three. Shifts are two or three hours, or whatever people can manage; be flexible.

Send a reminder email or make reminder phone calls three days before the tabling event. For larger events like street fairs, you might send two reminders, with instructions and directions. If the person is not familiar with the location, email directions, a map, or a pointer to a

mapquest.com map. Let them know parking options. For larger venues such as street fairs, find out exactly where your booth will be (not always easy, sometimes requires a visit to the outfit organizing the street fair, such as the Chamber of Commerce) and send all information to your volunteers.

As you table, you can recruit: likely candidates are strong supporters you see every week at an ongoing site, such as a farmer's market: "We'd love to have your help! Do you want to try it out for an hour or so?"

Once people volunteer at the table, ask them as they finish their shift if they can sign up for another slot. Always have the schedule with you so that you can sign people up for specific slots.

Keep detailed records of all volunteers, including address, phone numbers, e-mail address at the very least. Keep the information on when and where each volunteer tabled up to date.

Some of the volunteers will be willing to phone, lit-drop, canvass, and get out the vote; always ask! Keep track of the answer and get it promptly to the appropriate person.

Send a follow-up report to all participants, including coordinators; see "Mailing the Forms, Thanking Volunteers, and Keeping Records."

Going over the Voter Registration Form

Make sure you have the latest version of the voter registration form. Look for PERMANENT ABSENTEE VOTER field and up-to-date instructions on the driver's license requirement.

Make sure volunteers READ the instructions on your county's voter registration form.

Some organizations "customize" the voter registration forms (good sit-down job for an extra volunteer in a booth or at HQ):

- Highlight (with a yellow highlighter) the voter registration forms so that the required information is easier to spot: name fields, address fields, date and place of birth, driver's license, political party, HAVE YOU EVER BEEN REGISTERED TO VOTE? NOTICE (oaths), signature, and date. PERMANENT ABSENTEE is not required but is very advantageous for us, so highlight it!
- Have a stamp made with the organization's contact information (including website), which they stamp into the space on the far right end of the receipt at the bottom of the form.
- Stamp or write in the phone number of Registrar of Voters/Elections Office on the reverse of the receipt, below the return address.

At the Table: Speaking with Voters

Some organizations give each volunteer a button to wear (e.g. Proud to Be a Democrat, Stop Arnold/Bush), especially if s/he is not already wearing one.

Share these points with volunteers (such as in your reminder letter):

- Be proactive! Do not sit in the chairs; stand up as much as possible, take turns if necessary.
- Be friendly and non-intrusive: "Need to register to vote?" "Can we help you register to vote?"
- Never debate or argue with anyone.
- Always be gracious, friendly, and energetic. Remember that we are the public face of the Democratic Party.

- Have FUN! Do some shopping before or after your shift.

At the Table: Helping People Register to Vote

You can use your county's voter registration form to register any eligible Californian; Elections departments forward them to the appropriate county's Elections department. However, if the deadline is near, advise the voter that they should get a voter registration form for their own county. They're available at any post office, library, and fire station, as well as at many municipal offices.

If the voter is in a hurry, tell them where else to pick up forms, or give them forms to take. Ask if anyone else in the household needs to register; and go over the pitfalls (see item 3 under "At the Table: Voter Questions and Problems").

1. *Ask the voter to take out his/her driver's license.* A recent change in federal law *requires* the license number on the voter registration form, if the voter possesses a *California* driver's license.

If the voter does not own a CA driver's license, he/she can enter the last 4 digits of his/her Social Security number. If the voter does not have a SSN, they use their unique California ID; see instructions on the latest form.

If the voter possesses a CA driver's license but does not have it with him/her (or have the number memorized), it's best to give the voter the form to take home to fill out and mail in.

Tell the voter to fill out his/her name the way it is on the driver's license. When voters sign formal petitions, their names should match the way they're registered to vote.

2. Stay handy in case the voter wants help filling out the form. For example, some newly relocated voters aren't sure of what county they're in.
 - When the voter gets to the POLITICAL PARTY field, make sure the voter understands that American Independent is a far-right political party (George Wallace!) and that Decline to State means independent/ not declaring a political party.
 - When the voter approaches the field for PERMANENT ABSENTEE, say "Do you know about permanent absentee voting, vote by mail? It's so convenient," with as much detail as appropriate.
3. **Before the voter leaves:** check over the voter registration form for these frequently missed items:
 - last name, which is near the top on some forms
 - county
 - former address, if applicable; city is sufficient, if the voter can't remember the street address
 - all checkboxes, including the oath (citizenship, age); filled in is better than checked or X'ed
 - political party (check for American Independent)
 - for permanent absentee: both the checkbox and initials
 - signature
 - date in the format required on the form, written ON the MMDDYYYY boxes (e.g. 070406)
4. Tear off the receipt at the bottom of the form, enter the date, enter your name (unless your organization has stamped the form), and give the voter the receipt. Some volunteers write the phone number of the local RoV under the RoV return address on the back of the receipt, pointing it out to the voter.

5. If you have helped, write your name and the date in the section noted "If someone helps fill out or keeps this form..."; usually, this is lines d and e, respectively.

At the Table: Voter Questions and Problems

As the registration deadline approaches, make a sign, such as: LAST WEEKEND TO REGISTER for the NOVEMBER X ELECTION. Post this in addition to the Important Dates sign (see Appendix E).

1. *Q* I think I'm registered but didn't vote in the last election, do I have to register again?
A Did you get a voter information pamphlet and sample ballot? if you did, you are registered and need not register again.
[if we're not in the time frame for sample ballots] Call the Registrar of Voters and ask.
2. *Q* I think I'm registered but I'm not sure.
A Have you moved? If yes, you must Re-register.
[if not moved] Did you get a voter information pamphlet and sample ballot? If you did, you are registered and need not register again.
[if not received] You can call the Registrar of Voters and ask; you can take a form with you in case you have to re-register *[see answer to item 3]*.
3. *Q* Can I mail it in myself?
A Yes, it's prepaid *[show reverse of form]*. Watch out for *[point out county, last address, permanent absentee, signature, date slots]*. Keep this, it's your receipt *[show this]*, tear off the instructions *[show this]*, fold it; there's a little glue here *[show]*, you really have to press hard, don't use staples or tape.
4. *Q* I'm an independent, can I vote in the primary?
A In this state, if a political party allows independents (Decline to State) to vote in its primary, they may do so, but must choose only one such party. In California, the Democratic and Republican parties allow this. When you sign in to vote in your polling place, ask for a primary ballot for the party.
5. *Q* Can felons vote?
A In California, people who have paid their debt to society can vote. If a person is not on parole or in prison, and is of age, that person is eligible to vote. If a person is in jail awaiting trial, with no felony conviction, that person is still eligible to vote.

Tabling Equipment: Small Venues

1. Voter registration forms and permanent absentee ballot applications (if you're tabling near a county border, get forms for both counties; if you're tabling at an event that draws from many counties, try to get the all-purpose ones that go to Sacramento)
2. Two long clipboards
at least 4 ballpoint pens with blue or black ink (you can tether a pen to a clipboard with string)
3. Buttons, bumper stickers, bracelets, etc.
donation jar (clear plastic is good)
"suggested donation" sign for items (in holder or in/on jar)
one or two dollar bills to "prime the pump" at first; repay yourself after you close up the table
4. Large laminated Democrats Register to Vote Here sign(s)
American flag(s), medium size

sign: Five Great Reasons to Vote Absentee (see Appendix E)
sign (closer to election): Important Dates (last day to register etc.) (see Appendix E)

5. Plastic literature stand containing:
 - copies of Why We are Democrats (available from the CDP)
 - issues handouts (ballot propositions, Social Security, etc., but not too many)
 - list of Democratic clubs in your county
 - your organization's information/brochure
 - possible business cards for voters' reference
 - any flyers for upcoming eventssmall plastic bag containing stones to weight handouts (can be supplied by volunteer)
6. In folder or envelope:
 - tabling schedule (for new and repeat signups; see "Coordinating Volunteers")
 - event evaluation forms (see Appendix B)
 - donation forms
 - volunteer forms
 - Pruneyard decision copies (see Appendix A)
 - (instructions)Taped to table or committed to memory: address, phone number, office hours, and website of Registrar of Voters/Elections Office
Optional: Binder or large envelope with details on ballot propositions, candidates' stands on issues, for people who want more detail
7. Sunscreen, tissues, moist towelettes (supplied by volunteer); possibly also: string, masking tape, scotch tape, scissors or pocket knife; extra pens
8. Lightweight folding table (can be ironing board) and two chairs; blue tablecloth (or patriotic pattern); for sunny areas, beach umbrella and stand, or bungee cords to secure it to the table (against wind)
9. If possible: easel or post with information/handouts, for shy passersby (see "Setting Up the Venue")

Notes: You can put items 1 through 7 (except for large laminated signs) in a box or large sturdy shopping bag for (relatively) easy transport.

Tabling Equipment: Large Venues (Street Fairs)

Besides the equipment listed in "Tabling Equipment: Small Venues", you might need a canopy, larger/longer tables, more chairs, depending on what the street fair sponsor supplies and allows, and of course more forms, banners, signs, buttons etc. You can also supply bottled water and energy bars for the volunteers.

Have a list of the shifts, with the volunteers in each and their contact information, perhaps taped to the main table. All volunteers should have the lead's cell phone number.

Mailing the Forms, Thanking Volunteers, and Keeping Records

Photocopy the forms so that you can get in touch with the new voters (see "Follow up" below). If the state party is giving a bounty, make another copy of the Democratic forms for your coordinator to send in.

Mail the forms promptly. Do not keep them more than one or two days. Generally, they must be mailed within three working days (check with your county Registrar of Voters). Get in

the habit of making the copies right after you close up the table, on your way home from tabling, and mail the originals right after you finish copying them.

Tear off the instructions if you have not already done so, fold the form in half, moisten the glue at the bottom, and press hard. Don't staple the form and don't use tape.

Thank people: The event lead should call or send an email thanking the volunteers and summarizing the event (tally of voters registered, donations collected). It's important to share information about what you accomplish.

Consider holding a volunteer recognition event at the end of tabling season (this might be at the election night party), or sending certificates (See Appendix C). Make sure you do not miss anyone!

Keep records: The tabling lead should fill out an event evaluation form (see Appendix B) after every tabling event and give or fax it to the coordinator. The form lists the volunteers, records the number of voters registered and forms handed out, and records donations collected and handed off. The event lead also turns the donation money over to the organization's treasurer or other responsible person.

The coordinator keeps a running total of Democrats registered, total voters registered, forms handed out, etc., keeps track of volunteer activity, and enters new volunteer information into the volunteer database. *Share these totals frequently*, at county Democratic central committee meetings, club meetings, and other times and places where the participants come together. Promote your success at every opportunity! Showing the great value of this activity is another way to thank volunteers and enlist more of them.

Follow up: Give the (new) voters the reminder business card (if you're using it; Appendix D), and ask if they mind if the local Democrats/Democratic organization contacts them. If your organization has the resources, you can keep copies of the forms (Democrats only, of course) so that you can contact these new voters. You can send a thank-you letter (or email, if they've given an email address), with information on your county party, Democratic clubs, events of interest, contact number for questions, etc. Later in the election cycle you could mail or phone them ("Did you receive your sample ballot?...")

APPENDIX A

TEXT OF THE PRUNEYARD DECISION:

PRUNEYARD SHOPPING CENTER ET AL. v. ROBINS ET AL.

No. 79-289

SUPREME COURT OF THE UNITED STATES

447 U.S. 74; 100 S. Ct. 2035; 1980 U.S. LEXIS 129; 64 L. Ed.2d 741

March 18, 1980, Argued June 9, 1980, Decided

OPINION: MR. JUSTICE REHNQUIST delivered the opinion of the Court:

Appellant PruneYard is a privately owned shopping center in the city of Campbell, Cal. It covers approximately 21 acres -- 5 devoted to parking and 16 occupied by walkways, plazas, sidewalks, and buildings that contain more than 65 specialty shops, 10 restaurants, and a movie theater. The PruneYard is open to the public for the purpose of encouraging the patronizing of its commercial establishments. It has a policy not to permit any visitor or tenant to engage in any publicly expressive activity, including the circulation of petitions, that is not directly related to its commercial purposes. This policy has been strictly enforced in a nondiscriminatory fashion. The PruneYard is owned by appellant Fred Sahadi. Appellees are high school students who sought to solicit support for their opposition to a United Nations resolution against "Zionism." On a Saturday afternoon they set up a card table in a corner of PruneYard's central courtyard. They distributed pamphlets and asked passersby to sign petitions, which were to be sent to the President and Members of Congress. Their activity was peaceful and orderly and so far as the record indicates was not objected to by PruneYard's patrons. Soon after appellees had begun soliciting signatures, a security guard informed them that they would have to leave because their activity violated PruneYard regulations. The guard suggested that they move to the public sidewalk at the Prune Yard's perimeter. Appellees immediately left the premises and later filed this lawsuit in the California Superior Court of Santa Clara County. They sought to enjoin appellants from denying them access. **THE CALIFORNIA SUPREME COURT [HELD] THAT THE CALIFORNIA CONSTITUTION PROTECTS "SPEECH AND PETITIONING, REASONABLY EXERCISED, IN SHOPPING CENTERS EVEN WHEN THE CENTERS ARE PRIVATELY OWNED."** 23 Cal. 3d 899,910,592 P. 2d 341,347 (1979). **IT CONCLUDED THAT APPELLEES WERE ENTITLED TO CONDUCT THEIR ACTIVITY ON PRUNEYARD PROPERTY.**

Here the requirement that appellants permit appellees to exercise state-protected rights of free expression and petition on shopping center property clearly does not amount to an unconstitutional infringement of appellants' property rights under the Taking Clause. There is nothing to suggest that preventing appellants from prohibition this sort of activity will unreasonably impair the value or use of their property as a shopping center.

The PruneYard is a large commercial complex that covers several city blocks, contains numerous separate business establishments, and is open to the public at large.

THE DECISION OF THE CALIFORNIA SUPREME COURT MAKES IT CLEAR THAT THE PRUNEYARD MAY RESTRICT EXPRESSIVE ACTIVITY BY ADOPTING TIME, PLACE, AND MANNER REGULATIONS THAT WILL MINIMIZE ANY INTERFERENCE WITH ITS COMMERCIAL FUNCTIONS. APPELLEES WERE ORDERLY, AND THEY LIMITED THEIR ACTIVITY TO THE COMMON AREAS OF THE SHOPPING CENTER.

In these circumstances, the fact that they may have "physically invaded" appellants' property cannot be viewed as determinative. There is also little merit to appellants' argument that they have been denied their property without due process of law. In *Nebbia v. New York*, 291 U.S. 502 (1934), this Court stated:

"[NEITHER] PROPERTY RIGHTS NOR CONTRACT RIGHTS ARE ABSOLUTE.... EQUALLY FUNDAMENTAL WITH THE PRIVATE RIGHT IS THAT OF THE PUBLIC TO REGULATE IT IN THE COMMON INTEREST....

The shopping center by choice of its owner is not limited to the personal use of appellants. It is instead a business establishment that is open to the public to come and go as they please. The views expressed by members of the public IN PASSING OUT PAMPHLETS or seeking signatures for a petition thus will not likely be identified with those of the owner. Second, no specific message is dictated by the State to be displayed on appellants' property. There consequently is no danger of governmental discrimination for or against a particular message. Finally, as far as appears here appellants can expressly disavow any connection with the message by simply posting signs in the area where the speakers or HANDBILLERS stand. Such signs, for example, could disclaim any sponsorship of the message and could explain that the persons are communicating their own messages by virtue of state law. We conclude that neither appellants' federally recognized property rights nor their First Amendment rights have been infringed by the California Supreme Court's decision recognizing a right of appellees to exercise state-protected rights of expression and petition on appellants' property. The judgement of the Supreme Court of California is therefore Affirmed.

THE EXERCISE OF FREE SPEECH AT SHOPPING CENTERS

In 1980, in *Robins v. Pruneyard Shopping Center*, the California Supreme Court held that the California Constitution protects speech and petitioning, reasonably exercised, in privately owned shopping centers because the modern shopping center is a "public forum." Large retail malls, it reasoned, are the modern-day equivalent of town squares, and owners of such facilities cannot both invite the public and exclude those who wish to communicate with them.

The Pruneyard decision, however, does not stand for the blanket proposition that every large retail establishment must permit unregulated expressive activity on its property. The

Pruneyard court itself limited the obligations of shopping center owners, and subsequent California cases have further trimmed back the Pruneyard holding.

The Pruneyard court specified that owners of "modest real estate establishments" that were not performing the "quasi-town square" function would not need to permit such expressive activity. In addition, it made clear that property owners may reasonably regulate expressive activity as to time, place, and manner. **Subsequent decisions have further defined and narrowed the original Pruneyard ruling.**

Limiting Free Speech Rights. In 1999, in *Trader Joe's Co. v. Progressive Campaigns, Inc.*, a California appellate court held that an 11,000 square foot Trader Joe's store did not constitute a public forum that required Trader Joe's to permit solicitation of signatures from customers and employees without Trade Joe's consent. This Trader Joe's was a stand-alone structure that was not part of a shopping center and did not share property with any other retailer. The store had a parking lot containing 68 spaces for the exclusive use of Trader Joe's patrons and employees.

Using the balancing test cited in Pruneyard, the appellate court held that Trader Joe's constitutionally protected property interests outweighed the public's interest in using the grocery store as a forum for free speech and petitioning activity. The court determined that Trader Joe's invitation to the public to visit its store was more limited than the invitation made by a large, regional shopping center. Trader Joe's invited people to come and shop for food and food-related items, not to meet friends, to eat, to rest or to be entertained, or to congregate. It contained no plazas, walkways or central courtyard where patrons could congregate and spend time together. Further, because the store was a stand-alone structure, there could be no contention that its relationship to other establishments transformed it into a public forum. The court determined that Trader Joe's was not a public meeting place, and society had no special interest in using it as such.

Similarly, in *Costco Cos. v. Gallant* (2002), the California appellate court determined that the public was invited to Costco's stand-alone stores solely for the purpose of purchasing goods and services and, unlike customers of a large regional shopping center, Costco customers did not come to its stores with the expectation they will meet friends, be entertained, dine or congregate. Accordingly, because Costco's stand-alone stores were not essential forums for the general exercise of free speech, the court upheld a prohibition on expressive activity at Costco's stand-alone stores.

This public-purposes approach was made even more clear in *Albertson's, Inc. v. Young* (2003), in which the court held that the walkway at the entrance to Albertson's grocery store was not a public forum requiring Albertson's to permit expressive activity, even though Albertson's grocery store contained 44,237 square feet, had a large parking lot in front of its store, and was part of a shopping center that contained 10 retail stores (including a 37,000 square foot hardware store), five restaurants and five service businesses (including a travel agency, photo store, video library and mail box rental). The court's reasoning was that, despite the store's size and setting in a large shopping center, the store was a single structure, single-use grocery store that contained no plazas,

walkways, or courtyards for congregating. Further, the physical layout of the center was not under unified ownership and had no common areas that would invite the public to meet, congregate, or engage in other activities typical of a public forum that would distinguish the Albertson's store from an ordinary stand-alone grocery store.

Reasonable Regulation of Expressive Activity. Even where privately-owned retail establishments may be required to permit expressive activity, California courts have also upheld reasonable regulations for limiting the time, place and manner of that activity.

In the Costco case, the court determined that Costco could impose the following regulations at its stores that share a parking lot with other retailers: (a) no expressive activities on 34 of Costco's busiest days during the year, (b) no individual or organization may use Costco property for expressive activity on more than five days within any 30 day period, (c) no individual or group may use Costco facilities on consecutive weekends, (d) expressive activities may occur only within designated areas in front of Costco stores, (e) only three participants may engage in expressive activity at any one time, after identifying themselves, and (f) individuals or groups must complete an application at least three days in advance of any expressive activity.

The court found that these regulations were narrowly tailored to protect Costco's substantial interests in the smooth operation of its stores. Because the 34-day ban was content neutral, such days were during times when Costco had legitimate reasons to wish to avoid disruption, and more than 300 other days remained in the calendar year in which expressive activity was permitted, the court was satisfied the requirements were a valid regulation of time, place and manner. In addition, the court permitted Costco to enforce its 5 days out of 30 restriction so long as such enforcement was performed on a uniform basis or on the basis of some objective, content-neutral standards.

Likewise, in *Lushbaugh v. Home Depot* (2003) the California appellate court upheld Home Depot's written policy guidelines allowing non-commercial speech activities in a designated area, on a first-come, first-served basis and upon written application to store management, concluding that such regulations complied with any duty it may have had to provide public access by enforcing reasonable time, place and manner rules.

The emerging trend from these cases is that the crucial element in balancing private property rights against free speech rights is the nature of the premises and the extent to which they have been opened up to the public for congregation and other public purposes, as opposed to strictly directed commercial purposes. In each of these cases, the retailers did not create an environment that encouraged the public to gather for any purpose other than to purchase goods. However, these cases leave open the question as to how the courts might treat other retail settings that do invite the public to congregate for purposes other than just to buy merchandise or services, as, for example, a large bookstore that (along with its bookselling) invites people to gather and meet in, and even offers performance space in, its cafe.

**VOLUNTEER
RECOGNITION
AWARD**

**The Santa Clara County Democratic Party
is pleased to present this award to**

[name here]

**for outstanding service in
the Special Election of November 2005**

**This volunteer used good judgment, good manners,
a cheerful disposition, strong organizational skills,
complete dedication to the task,
and long hours of hard work
to help us win this election and keep our community
the wonderful place to live that it is.**

**With heartfelt thanks, we offer this special recognition
for a job very well done!**

[signature here, with title]

Appendix D

Thank you for registering Democratic! **YOUR VOTE IS IMPORTANT**

Remember, if you move, you will need to reregister to vote, using your new address. We're happy to help; just contact us:

[county party phone numbers]

[county party logo]

[county party address]

[county party website]

*[once you've finalized your design,
reproduce it in each rectangle]*

Labor Donated *OR union bug*

Five Great Reasons to Vote Absentee

- **Convenient** – vote at home at your leisure; you have weeks, instead of just 13 hours on Election Day
- **Flexible** – cast your vote by mail, or walk it into any polling place in the county on Election Day
- **Paper Ballot** – no vote tampering, recountable
- **Raises Voter Turnout** – from 50% to 85%!
- **Saves Time for election day volunteers** – no need to remind absentees to vote

November 8 Election

Important Dates

- ***last day to register:*** MONDAY OCTOBER 24
- ***last day for registered voters to apply for absentee ballot:*** Tues Nov 1st
application must be RECEIVED at the Registrar of Voters by 5pm,
or phone call (408-299-VOTE) received in office by 5pm
- ***permanent absentee ballots mailed out to voters***
starting week of Oct 10
- ***early voting:***
Registrar of Voters, 1555 Berger Drive, Building 2, San Jose
Monday Oct 31 - Friday Nov 4: 8am - 5pm
Saturday Nov 5: 9am - 3pm Sunday Nov 6: 9am - 3pm
Monday Nov 7: 8am - 5pm Tues Election Day: 8am - 8pm

Farmers' Market Setup (8x8 foot canopy with 5 foot table)



U.S. Flag

SCC Dem Party Banner

SCCDP Shirt Buttons Name Tag

"Dissent is the Highest Form of Patriotism" sign, with "Brought to you by..." sign

"Five Great Reasons to Vote Absentee" sign

Local Dem Club Banner

"Democrats Register to Vote" signs in appropriate language(s)



**Election Guide Flyer
Donate / Volunteer Form**

**“STOP
Arnold”
fans**

**Free candies or
other giveaways**

**Buttons, Wristbands,
Bumper Stickers with
suggested donation
amounts displayed**

**Local club
pamphlets and other
topical flyers**

**Rocks, clips or other
method to secure
papers in case of wind**

**Brochures:
“Why We’re Democrats” (Multi-lingual)
“Democrats Stand for...”**

**Permanent Absentee Voter
Forms and Voter Registration
forms with clipboards and pens
available**