



VOTER'S CHOICE ACT

Humboldt County Office of Elections

HOW TO INITIATE A RECALL ELECTION

**COUNTY, SCHOOL DISTRICT, SPECIAL
DISTRICT AND LOCAL JUDICIAL OFFICES**

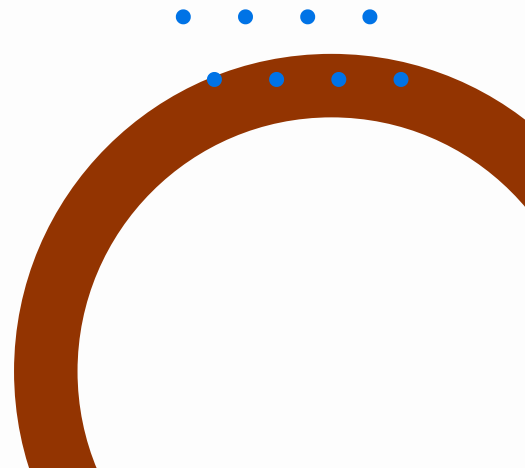
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Introduction

Using This Guide

This guide is intended to provide basic facts about the recall process for county, school district, special district, and local judicial elected offices. It is intended for informational purposes only and does not constitute legal advice. Proponents are encouraged to seek legal counsel from an attorney.

For recall of city officeholders, contact that city's City Clerk directly.

The recall process is different for statewide offices and for members of the Assembly and State Senate. For recall of state officeholders, see the "Procedure for Recalling State and Local Officials" published by the Office of the Secretary of State. [<https://elections.cdn.sos.ca.gov/recalls/recall-procedures-guide.pdf>]

Federal officeholders are not subject to recall.

This guide provides an overview of the local recall process, as well as appendices with helpful examples and references, including a flow chart that shows the process of preparing, circulating, and filing a recall petition, and continuing through qualifying and calling an election. This guide also refers to outside sources that readers may find useful, including:

- The "Procedure for Recalling State and Local Officials" published by Office of the Secretary of State.
- The applicable sections of the California Elections Code, Government Code, California Constitution, etc.

Except as otherwise specified, references to the number of days means calendar days, as in " ... the incumbent's answer to Notice of Intent to recall, is due within seven [calendar] days after the filing of the Notice of Intent by the proponents."

Basis for Recall

Recall is a political power granted to voters to remove elected officials from office.¹ Neither the California Constitution nor the Elections Code specify the circumstances under which a recall may be initiated. In fact, the laws prevent the elections official from evaluating the proponents' reasons for recall.

The State Constitution specifies that the reasons for recalling state officers "is not reviewable."² The Elections Code specifies that the statement and answer "are intended solely for the information of the voters. No insufficiency in form or substance thereof shall affect the validity of the election proceedings." However, proponents may still face criminal or civil action if the statement contains false, slanderous, or libelous materials.³

¹ Cal. Const. Art. II, § 13.

² Cal. Const. Art. II, § 14.

³ Elec. Code § 11024. The inclusion of language discouraging false, slanderous, and libelous statements within the Notice of Intent was added by Assembly Bill 2584 and is effective starting on January 1, 2023.

Incumbents May Be Recalled

Any elective officer can be recalled, including any officer appointed in lieu of election or to fill vacancy. The subject of a recall, referred to in this guide as the Incumbent, must be served with a Notice of Intent.⁴

Limitations on Recall

Elections Code § 11007 specifies that a recall may not be commenced against an incumbent if any of the following apply:

- They have not held office during the current term for more than 90 days.
- A recall election has been determined in their favor within the last six months.
- Their term of office ends within six months or less.

Administering Recalls

The local elections official is responsible for administering the entire local recall process. The elections official might be the County Clerk (in Humboldt County, the County Clerk is also the Registrar of Voters), a City Clerk, or the Secretary of the Governing Board if the recall involves officers of landowner districts.⁵ If the elections official is the subject of the recall, then the relevant governing board designates another person to conduct the recall election.⁶

Proponent Qualifications

Recall proponents must be registered voters qualified to vote for the office of the incumbent.⁷ For example, a resident of District A may not be a proponent to recall an incumbent who represents District B.

⁴ Elec. Code § 11006.

⁵ Elec. Code § 11002.

⁶ Elec. Code § 11201.

⁷ Elec. Code §§ 322, 11005.

One Recall Per Incumbent

Each recall is a separate process for every incumbent targeted for recall.⁸ For example, if there are three separate incumbents to be recalled on a single board within a county or district, there must be three of each of the following:

- Notices of Intent
- Affidavits of Time and Manner of Service
- Affidavits of Proof of Publication (or posting, if applicable) of the Notice of Intent
- Sets of Two Blank Copies of the Proposed Petition Formats
- Recall Petitions

Any error in following any of the steps in connection with a recall may require that some or all steps taken up to that point be repeated until corrected. When multiple recalls are initiated, multiple petitions may be circulated.

Starting the Recall Process

Drafting the Notice of Intent

The initial step for proponents interested in the recall of an elected officer is drafting a Notice of Intent.⁹

The Notice of Intent must include:

- The name and title of the officer to be recalled.
- A statement of no more than 200 words stating the reasons for the recall. See Appendix B for rules on how to count words.
- The printed name, signature, and residential address of each proponent. If a proponent cannot receive mail at their residence, he or she must provide their residential address plus an alternative mailing address.
- The language contained in Elections Code § 11023 informing the incumbent of their right to file an answer. A sample Notice of Intent is included in Appendix C.

⁸ Elec. Code § 11044.

⁹ Elec. Code § 11020.

The minimum number of proponents is determined by the county's population and the subject of the recall.¹⁰

Office of Incumbent	Number of Registered Voters	Minimum Proponents
State Officer or Local Officer	100,000 or more	50 or five times the number of signatures required for the official's nomination, whichever is higher
Local Officer	At least 1,000 but less than 100,000	30 or three times the number of signatures required for the official's nomination, whichever is higher
Local Officer	Less than 1,000	30

The minimum number of proponents required to sign a Notice of Intent for Humboldt County is 30 or is equal to three times the number of signatures required for the incumbent's nomination petition, whichever is higher. For example, to recall a county elected official, the minimum number of signatures required on the Notice of Intent is 60, since the minimum number of signatures needed for nomination to a countywide office is 20.¹¹

Serving the Notice of Intent

A copy of the Notice of Intent must be served on the incumbent sought to be recalled by personal delivery or by certified mail.¹² If serving by certified mail, recall proponents should confirm the incumbent's most current and correct mailing address. Proponents may use the incumbent's business address.

Filing the Notice and Proof of Service

Proof of Service is an attestation that the Notice of Intent was served on the incumbent sought to be recalled, when service occurred, and the manner of service. The original Notice of Intent must be filed with the elections official within seven days of the incumbent having been served, along with a Proof of Service. See Appendix D and E for examples of affidavits used for personal delivery and certified mail.

On the day a Notice of Intent and Proof of Service are filed, elections officials may (1) notify the incumbent sought to be recalled of the filings, (2) inform the incumbent of the seven-day deadline for filing an answer, and (3) provide the incumbent a copy of the filings, on request. A separate Notice of Intent and Proof of Service must be filed for each incumbent targeted for recall.

¹⁰ Elec. Code § 11020(b)(2). The law on the minimum number of signatures was updated by Assembly Bill 2584 and is effective starting on January 1, 2023.

¹¹ Elec. Code § 8062(a)(3).

¹² Elec. Code § 11021.

Publishing the Notice

Proponents are also required to publish, at their expense, the Notice of Intent at least once in a newspaper of general circulation serving the jurisdiction where recall is sought.¹³ There is no timeframe specified for publication. However, Proof of Publication is required at the time blank copies of the petition are filed. Proponents must obtain a signed affidavit proving publication from the newspaper and file it with the elections official.¹⁴

The publication does not need to include the information in Elections Code § 11023, which informs incumbents of their right to file an Answer to the Notice of Intent. Only the names and addresses of 10 recall proponents need to be included with the publication.¹⁵ All other parts of the Notice of Intent must be published.

If there is no newspaper of general circulation that can provide timely publication, then the Notice of Intent must be posted in at least three public places within the jurisdiction where recall is sought. If posting is used, an affidavit attesting to the postings will be required to be filed with the elections official.

Incumbent's Answer

The incumbent has the right to provide an Answer to the Notice of Intent. The answer is limited to 200 words, and the original must be filed with the elections official within seven days after the filing of the Notice of Intent by the proponents. It must be signed and shall be accompanied by the incumbent's printed name and business or residential address.¹⁶

Within that same seven-day period, the incumbent must serve a copy of the Answer on one of the proponents named in the Notice of Intent. Service must be by personal delivery or certified mail.¹⁷ While there is no proof of service requirement for the Answer, the incumbent may request that the election official include a copy of that proof along with the Answer when filing.

Note to proponents: If a proponent did not receive a copy of the incumbent's answer, contact the elections official to see if the incumbent filed an answer. It is the proponents' responsibility to verify with whether an answer has been filed.

Campaign Finance Reporting

Recall proponents and opponents may have campaign disclosure and filing obligations under state law. See "[Campaign Finance Reporting Requirements](https://www.sos.ca.gov/campaign-lobbying/cal-access-resources/campaign-reporting)" for additional information. [https://www.sos.ca.gov/campaign-lobbying/cal-access-resources/campaign-reporting]

¹³ Elec. Code § 11022; Gov. Code § 6061.

¹⁴ Elec. Code § 11042(b).

¹⁵ Elec. Code § 11041(a)(2).

¹⁶ Elec. Code § 11023.

¹⁷ Elec. Code § 11023.

Building the Petition

Overview

The language and design of the recall petition are strictly controlled by the Elections Code. See Appendix F for a sample recall petition form. A similar version is also provided in "Procedures for Recalling State and Local Officials" published by the Secretary of State.

Format of the Recall Petition

The recall petition format provided by the Secretary of State is mandatory and must be used for state recalls. The petition format must be made available by the county elections official or Secretary of State on request.¹⁸

The recall petition may consist of any number of separate sections, which must be duplicates except as to signatures and information from signers and circulators. The number of signatures attached to each section is left up to the discretion of the person soliciting the signatures. Each section may consist of any number of separate pages. A page is defined as each side of a sheet of paper on which any signatures appear.¹⁹

The top margin must be at least one inch wide on each page and the bottom margin must be at least one-half inch wide on each page.²⁰

All petition sections must be printed in uniform size and darkness with uniform spacing.²¹ See Appendix G for rules on formatting.

On each page, in no smaller than 8-point type, there must be:

- A copy of the Notice of Intent, including the names of 10 recall proponents (signatures and addresses do not need to be included).
- The incumbent's Answer, if any. If no Answer was filed, then the petition must state that no Answer was filed.
- If the recall is of a member of a school board, an estimate of the cost to conduct a special election.²²
- If a committee formed under Government Code § 82013 pays for the circulation of the petition, an Official Top Funder's sheet.²³

¹⁸ Elec. Code §§ 11041, 11043.5.

¹⁹ Elec. Code § 11040.

²⁰ Elec. Code §§ 100, 11043.

²¹ Elec. Code § 11041.

²² Including the cost of a special election for the recall of school board members was provided in Assembly Bill 2584 and is effective starting on January 1, 2023.

²³ Elec. Code § 107.

Note to proponents: The Notice of Intent to appear on the petition must be identical to that which was published, except for the language related to the incumbent's right to file an answer.²⁴

Immediately above the signature space(s) shall be the following statement:

"Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the [insert name of electoral jurisdiction, e.g., Central Fire Protection District] of [insert name of geographical location, e.g., County of Humboldt], California."

When a petition is circulated in more than one county, each section of the petition shall bear the name of the county in which it is circulated, and only registered voters of that county may sign that section.²⁵

The petition must be designed so that each signer can personally affix their²⁶:

- Printed name;
- Signature;
- Residential address, giving street and number, or if no street or number exists, adequate designation of residence so that the location may be readily determined; and
- Name of incorporated city of unincorporated community.

Signature spaces must be consecutively numbered starting with the number one for each petition section.

A space at least one inch wide must be left blank at the right margin of the page after each name and address for use by the elections official in verifying the petition.

Each section of the petition must include a Declaration of Circulator (person soliciting signatures) of that section of the petition, setting forth in the circulator's own hand, all the following:

- Printed name of the circulator;
- Residential address of the circulator, giving street and number, or if no street exists, adequate designation of residence so that the location may be readily determined; and
- Dates between which all signatures to the petition were obtained.

²⁴ Elec. Code § 11021.

²⁵ Elec. Code § 11047.

²⁶ Elec. Code § 11043.

The Declaration must also include:

- That the circulator circulated that section and witnessed the appended signatures being written;
- That according to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be;
- That the circulator is a registered voter in the electoral jurisdiction of the incumbent sought to be recalled; and
- That the circulator certifies to the content of the Declaration as to its truth and correctness, under penalty of perjury. The circulator shall state the date and the place of execution on the Declaration along with their signature.²⁷

A separate petition is required for each incumbent sought for recall.²⁸

Filing of Blank Copies of Petition and Proof of Publication

Two blank copies of the recall petition must be filed with the elections official within 10 days after the filing of the incumbent's answer. If no answer was filed, then copies are due within 10 days after the deadline for the incumbent to file an answer.²⁹

The affidavit attesting to the proof of publication (or posting, as applicable) of the Notice of Intent is due at this same time.³⁰

A copy of the petition must be available for public examination for 10 days. This public examination period runs concurrently with the 10 days the election official must review the petition. During the review period, a voter who is qualified to vote for the office of the incumbent may file a writ of mandate or request an injunction requiring that the proponent's statement or incumbents answer be amended or deleted.³¹

Review and Approval of Petition Format

The elections official shall review the petition format within 10 days and notify the proponents in writing that the petition is either approved for circulation or requires modification.³²

If changes are necessary, proponents have 10 days to file two blank copies of the corrected petition with the Elections official. This process shall be repeated until no further alterations are necessary.³³

Elections officials may, as a courtesy, notify the incumbent when the petition is approved.

²⁷ Elec. Code §§ 104, 11046.

²⁸ Elec. Code § 11044.

²⁹ Elec. Code § 11042.

³⁰ Elec. Code § 11042.

³¹ Elec. Code § 11042.5. The 10-day examination period was added by Assembly Bill 2584 and is effective starting on January 1, 2023. A court may only grant a writ of mandate or injunction on clear and convincing proof that the material in question is false, misleading, or inconsistent with the requirements of the recall process.

³² Elec. Code § 11042.

³³ Elec. Code § 11042.

Signature Requirements and Circulation Deadlines

Circulating the Recall Petition

Proponents may not begin collecting signatures until the form and wording of the recall petition have been approved by the elections official. The time period available for circulating the petition is measured from the time when the Elections Office notifies the proponents that the petition meets the form and wording requirements.³⁵

Number of Days to Circulate Petition

The circulation period of a recall petition is based on a sliding scale using the number of registered voters in the electoral jurisdiction eligible to vote on the office of the incumbent subject to recall.³⁶

No. of Registered Voters	No. of Days to Circulate
Under 1,000	40
1,000 – 4,999	60
5,000 – 9,999	90
10,000 – 49,999	120
50,000 and above	160

Number of Signatures Needed

The number of valid signatures required on a recall petition to qualify and trigger a recall election is also based on a sliding scale using the number of registered voters in the electoral jurisdiction eligible to vote on the office of the incumbent subject to recall.³⁷

No. of Registered Voters	% of Signatures Needed
Under 1,000	30%
1,000 – 9,999	25%
10,000 – 49,999	20%
50,000 – 99,999	15%
100,000 and above	10%

³⁴ Elec. Code § 11042(d).

³⁵ Elec. Code § 11220(a).

³⁶ Elec. Code § 11220.

³⁷ Elec. Code § 11221.

The number of registered voters shall be determined using the last official report of registration by the elections official to the Secretary of State prior to the approval of the petition for circulation.³⁸ If a recall is for an officer of a landowner voting district, the signatures must be from those owning at least 10 percent of the assessed value of land.³⁹

Withdrawal of Signatures from Petitions

Any voter who wishes to withdraw their signature from a petition may file a written request with the elections official no later than the day before the petition is filed.⁴⁰ The written request must identify the subject of the recall petition. It must clearly indicate the requestor signed the petition and must contain that person's name, residential address, and signature.

Please note that the elections official does not know exactly when the proponents will choose to file the recall petitions. Any voter who wishes to withdraw their signature should make their request as soon as possible.

Collecting Signatures

Circulators

Any person 18 years or older may circulate a petition.⁴¹ If a potential signer asks whether a circulator is paid or a volunteer, the circulator must answer truthfully.⁴²

Signers

Only registered voters who, at the time of signing the recall petition, are qualified to vote on the office held by the incumbent whose recall is sought.⁴³ Each signer must personally sign and print their name and residential address, including street and house or unit number (or, if none, an explanation of how to locate place of residence).⁴⁴

A voter physically unable to sign a petition may request someone else to print the voter's name and residence address on the petition. The voter then must affix their mark in the appropriate space on the petition and have one person witness the mark by signing their names on the same line next to the mark.⁴⁵ Witnesses do not have to be registered, and the circulator may serve as a witness.

If a recall petition is circulated in more than one county, a separate section should be used for each county. Each section of the petition must include the name of the county in which it is circulated, and only registered voters of that county may sign that section.⁴⁶

38 Elec. Code §§ 11220(b), 11221(b).

39 Elec. Code § 11221(d).

40 Elec. Code §§ 103, 11303.

41 Elec. Code § 102.

42 Elec. Code § 18600.

43 Elec. Code §§ 322, 11045.

44 Elec. Code §§ 100, 322, 11045.

45 Elec. Code § 100.5, Gov. Code § 16.

46 Elec. Code § 11047.

Registering or Re-Registering Potential Signers

For potential signers who are eligible but currently not registered to vote, or those who are registered but have since moved, a newly completed voter registration card will ensure their signature on a recall petition can be counted as valid. The new registration card must be signed on or before the date the voter signs the petition and the registration card itself must be received on or before the date the petition is filed.⁴⁷

Note to proponents: it will assist the elections official in verifying signatures on the petition if the circulator notes in the left-hand margin of the petition, adjacent the signature, the registration affidavit number and notifies the elections office at the time of delivery that these registration cards are related to the specific petition. Proponents should also be aware that completed registration cards must be delivered to the elections official within three days of receipt from the voter.⁴⁸

Complete and Sign the Declaration of Circulator

The circulator must personally affix in their own handwriting their printed name, residential address, and the dates of circulation of each petition. Preprinted dates, or generalized dates other than the range of dates on which the petition section was circulated, are not authorized.⁴⁹

Elections officials can only count petitions that include a signed Declaration of Circulator. Any defects or omissions in the Declaration of Circulator may invalidate all signatures appearing on that section.⁵⁰

Invalid Signatures

Some of the common reasons why petition signatures may be determined to be invalid are:

- The signer is not eligible to vote on the office held by the incumbent whose recall is being sought.
- The signer has moved and failed to re-register.
- The signer lists a P.O. box or business address as their address of residence.
- The signer signs the petition more than once. Only the first signature encountered during verification will count. If the elections official uses a random sampling of petition signatures, duplicate signatures are projected and then subtracted under the random sampling methodology.⁵¹
- The residence address appearing on the petition was "pre-printed" and not written in personally by the signer.
- The signature is illegible and/or does not compare to the voter's signature on his/her voter registration card on file with the Elections official.

⁴⁷ Elec. Code § 2102(b).

⁴⁸ Elec. Code § 2138.

⁴⁹ Elec. Code §§ 104, 11046.

⁵⁰ Elec. Code §§ 104, 11046.

⁵¹ Elec. Code § 11225; 2 CCR §§ 20530-20533.

Proponents should expect that circulators will unintentionally gather some invalid signatures. Gathering extra signatures above and beyond the minimum needed to qualify the petition is permitted. Circulators may not make any changes or “corrections” in the signatures or addresses that voters have written on the petition.

Circulation of Recall Petitions

Humboldt County Elections cannot speak to any issues that may arise when circulating a petition at shopping centers or other high traffic areas on public or private property. In the past, supporters and opponents of a recall have contacted the property managers and owners in advance of circulating petitions. Any questions about the right to circulate petitions should be forwarded to your legal counsel.

Some proponents have posted their petitions online and have used the Internet to circulate petitions. There is no express prohibition in the Elections Code on electronic distribution of a petition. Please note that the Elections Office will review all petitions and will count only valid signatures on valid petitions.

Penal Provisions

Penal provisions relating to initiative, referendum, and recall petitions are found in Division 18 of the Elections Code. The following list is not exhaustive. Please consult your legal counsel with any specific questions.

Provisions Relating to Circulating a Petition

It is a misdemeanor for a circulator to intentionally misrepresent or lie about the contents, purport, or effect of any petition to any signer or potential signer. It is also a misdemeanor for anyone to willfully and knowingly circulate, publish, or exhibit any false statement or misrepresentation about any recall petition for the purpose of obtaining any signature to, or persuading or influencing any person to sign that petition.⁵²

Any person working for the proponents of a recall petition who refuses to allow a prospective signer to read the petition is guilty of a misdemeanor.⁵³

Every person who offers or gives money or other valuable thing to someone in exchange for their signature on a petition is guilty of a misdemeanor.⁵⁴

No one shall knowingly or willfully permit the list of signatures on any petition to be used for any purpose other than qualifying a recall for the ballot. Violation is a misdemeanor.⁵⁵

⁵² Elec. Code § 18600.

⁵³ Elec. Code § 18601.

⁵⁴ Elec. Code § 18603.

⁵⁵ Elec. Code § 18650.

Provisions Relating to Fraudulent Signatures

Every person who solicits any circulator to affix or causes or allows any false or forged signature to be affixed, on any petition is guilty of a misdemeanor.⁵⁶

Anyone who circulates or causes to be circulated a recall petition knowing it to contain false, forged, or fictitious names is punishable by a fine not exceeding \$5,000 or by imprisonment in state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both fine and imprisonment.⁵⁷

Every person who knowingly signs their name more than once to a recall petition or signs their name to that petition knowing that they are not qualified to sign it is guilty of a misdemeanor.⁵⁸

Every person who subscribes to any recall petition a fictitious name, or the name of another, or who causes another to subscribe such a name to that petition, is guilty of a felony and is punishable by imprisonment in the state prison for two, three, or four years.⁵⁹

Every person who files any recall petition that includes any signature which the person filing the petition knows to be false or fraudulent or not the genuine signature of the person whose name it purports to be is punishable by a fine not exceeding \$5,000 or by imprisonment in the state prison for 16 months or two or three years or in a county jail not exceeding one year, or by both the fine and imprisonment.⁶⁰

Threats to Prevent Petition Circulation or Filing

Every person who threatens to commit an assault or battery on a person circulating a recall petition or on a relative of such a person or to inflict damage on the property of the circulator or relative, with the intent to dissuade the circulator from circulating the petition or in retribution for the circulation, is guilty of a misdemeanor.⁶¹

Filing the Recall Petition

All sections of the recall petition must be filed at the same time. No additional signatures may be filed or accepted after that time. The petition sections must be filed by the proponents or by any person or persons authorized in writing by a proponent. A copy of the written authorization must be included with the filing.⁶²

If the elections official determines that the number of signatures, on its face, appears to be equal to or greater than the minimum required, the petition will be accepted for filing. If the number is less than the minimum required, the elections official will not take further action.⁶³

56 Elec. Code § 18610.

57 Elec. Code § 18611.

58 Elec. Code § 18612.

59 Elec. Code § 18613.

60 Elec. Code § 18614.

61 Elec. Code § 18630.

62 Elec. Code § 11222(a).

63 Elec. Code § 11222(b).

If the petition was circulated in more than one county, the elections official of each county shall affix, with the certificate showing the results of their examination, the number of registered voters of the county residing within the electoral jurisdiction of the officer sought to be recalled.⁶⁴

Verifying Petition Signatures

The elections official has 30 days from the date the petition is filed to examine it and determine the total number of valid signatures.⁶⁵

The elections official must verify the validity of all the signatures on the petition or, if there are more than 500 signatures, verifying a random sample of 500 or 5% of signatures submitted, whichever is greater.⁶⁶ To save time and money, election officials may choose the latter when presented with petitions with large volumes of signatures.

If the number of valid signatures, as determined by the random sample, is equivalent to 90-110% of the number needed to qualify the recall for the ballot, the elections official is required to conduct a 100% signature examination of the petition. If the random sample shows that the number is less than 90%, the petition will be certified as insufficient. If it is over 110%, it will be certified as sufficient.⁶⁷

Certifying Results of Signature Verification

Sufficient Number of Valid Signatures

If the petition is found to have sufficient valid signatures to qualify the recall for the ballot, the elections official will immediately certify the results of the signature examination to the governing body for consideration at its next regular meeting.⁶⁸ The certificate shall contain:

- Name of officer whose recall is sought;
- Title of their office;
- Number of signatures required by law;
- Total number of signatures on the petition;
- Number of valid signatures on the petition; and
- Number of signatures that were disqualified.

⁶⁴ Elec. Code § 11223.

⁶⁵ Elec. Code §§ 11224, 11225.

⁶⁶ Elec. Code §§ 11224, 11225.

⁶⁷ Elec. Code § 11225.

⁶⁸ Elec. Code §§ 11224, 11225, 11227.

Insufficient Number of Valid Signatures

If the petition is found to contain an insufficient number of valid signatures to qualify the recall for the ballot, no further action is taken, and the petition remains on file.⁶⁹ No insufficiency in a petition against any officer prevents the proponents from filing a new petition against that officer.⁷⁰

Restrictions on Access

Some voters may have concerns about possible harassment if they sign an initiative, referendum, or recall petition. Government Code § 7924.110 provides that such petitions (and any memoranda prepared by the elections official in examining the petitions) are not public records and are not open to inspection. There are two exceptions:

- Public officers and public employees responsible for verifying the signatures; and
- Recall proponents if the petition is found to be insufficient and fails to qualify for the ballot. In that event, proponents have the right to examine those signatures found to be invalid and the reasons why. Proponents may authorize another to examine the petition on their behalf if the request is in writing. Any such examination shall begin within 21 days following certification of insufficiency.⁷¹

Resignation of Incumbent

If the incumbent whose recall is being sought resigns or otherwise vacates their seat for any other reason at any time following the filing of the recall petition, the recall process will proceed. Anyone appointed to fill the vacancy serves only until a successor is selected and qualifies for the office.⁷²

The Recall Election

Calling the Election

Within 14 days after the meeting at which the governing body considers the Certificate of Sufficiency received from the elections official, the governing body must issue an order calling for an election.⁷³ If the governing body fails to act within those 14 days, the county elections official shall call for the election within five days. If the recall is in more than one county, the elections official of the county with the largest number of registered voters sets the date in consultation with the other counties.⁷⁴

The election must be held between 88 and 125 days from the date of the order. The recall election may be conducted within 180 days so that it can be consolidated with a regularly scheduled election.⁷⁵ No election can be held on any day other than a Tuesday, and may not be held on the day of, before, or after a state holiday.⁷⁶

69 Elec. Code § 11226.

70 Elec. Code § 11300.

71 Elec. Code §§ 11301; Gov. Code 7924.110.

72 Elec. Code § 11302.

73 Elec. Code § 11240.

74 Elec. Code § 11241.

75 Elec. Code § 11242. Allowance for 180 days to encourage consolidation was added by Assembly Bill 2584 and is effective January 1, 2023.

76 Elec. Code § 1100.

A recall election is conducted, canvassed, and the results declared in substantially the same manner provided for a regularly scheduled election for the office.⁷⁷ One election is sufficient for the recall of several officers.⁷⁸

Cost of a Recall

The government agency whose officials are sought to be recalled is responsible for the cost of an election. If the recall is of a member of a school board, an estimate of the cost to conduct a special election must be included on the petition.⁷⁹ Calculating the cost of any election is complex and depends on several factors, including and not limited to the number of voters served, the cost of materials, labor, and required publications.

Contact the elections official for a cost estimate. If the recall election can be consolidated with a regularly scheduled election, the cost may be considerably reduced.

Only One Question for Local Recalls

If seeking to recall a local elected official, the ballot would only include Question 1, the question of whether the incumbent should be recalled. If the incumbent is successfully recalled, then the office becomes vacant and would be filled under the existing laws for filling a vacancy.⁸⁰ A majority “yes” vote will result in the removal of the incumbent.⁸¹ Petitions for local recalls should not include a request to elect a successor.⁸³

There is no longer a Question 2, which would have offered a list of local candidates to replace the incumbent, should he or she be recalled. Eliminating Question 2 was a state legislative decision. Assembly Bill 2582 provides that a question to vote for potential successors only applies to statewide offices.

Sample Ballot Pamphlet

The sample ballot pamphlet shall include both the grounds for the recall (from the Notice of Intent) and the incumbent's Answer, if one was filed. The grounds for the recall and Answer shall be printed on the same page or on facing pages and shall be of equal prominence.⁸⁴

If the recall of more than one incumbent is sought, the grounds for the recall and answer for each shall be printed together and clearly distinguished from those of any other.⁸⁵

Campaign Finance Reporting Requirements

Both the recall proponents who organize to qualify a recall for the ballot and those who oppose a recall effort will have to meet the filing obligations and campaign disclosure requirements required by the state Political Reform Act, as well as any additional limitations or requirements established by local ordinance, if any.

77 Elec. Code § 11328.

78 Elec. Code § 11329.

79 Including the cost of a special election for the recall of school board members was provided in Assembly Bill 2584 and is effective starting on January 1, 2023.

80 Elec. Code § 11382.

81 Elec. Code § 11384.

82 Elec. Code § 11041.

83 Elec. Code §§ 11041, 11382.

84 Elec. Code § 11325.

85 Elec. Code § 11325.

If you or your political organization raise or spend any money in support or opposition to a recall effort, it is your responsibility to get familiar with all campaign reporting requirements, including deadlines. The Fair Political Practices Commission (FPPC), which enforces the Political Reform Act, is a helpful resource that can assist you. Specific information about disclosure requirements is available by contacting the FPPC at (866) 275-3772. All contact information can be found at <https://www.fppc.ca.gov/about-fppc/contact-us.html>.

Pursuant to Humboldt County Administrative Code § A-II 7.1⁸⁶, the elections office requires electronic filing of most campaign finance documents. Please contact the elections office if you need to set up an account with NetFile which provides electronic filing services.

The Aftermath

Repeating a Recall if the Incumbent is not Recalled

If the recall election is conducted and the incumbent is not recalled, a new recall may not be commenced against the official within six months of that election nor during the last six months of the official's term of office.⁸⁷

Right of the Recalled Incumbent to Run in Future Elections

A successful recall election applies only to the current term of office. There is nothing in the law to prevent a public official recalled in one election from running for the same or any other office in a subsequent election.

Appendix B

Rules for Counting Words

Elections Code § 9 establishes the rules for counting the number of words in the proponents' statement of reasons, the incumbent's answer, and candidate statements.

Each word is counted as one word except:

- **Punctuation:** Punctuation is not counted.
- **Titles:** Words used in the title of the document, such as "Notice of Intent to Circulate Recall Petition," are not counted.
- **Proper Nouns & Geographical Names:** All proper nouns, including geographical names, shall be counted as one word. For example, "Happy Valley Unified School District" counts as one word.
- **Abbreviations:** Each abbreviation for a word, phrase, or expression shall be counted as one word.
- **Hyphenations:** Hyphenated words that appear in any generally available dictionary shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
- **Dates:** Dates shall be counted as one word regardless of how they are written (1/1/2023 or January 1, 2023).
- **Numbers:** Any number consisting of a digit or digits shall be considered as one word. Any number that is spelled, shall be considered as a separate word. "100" shall be counted as one word, whereas "one hundred" shall be counted as two words.
- **Phone & Internet:** Web site addresses and telephone numbers shall be counted as one word.
- **Symbols:** Numbers and characters used with a dollar sign (\$), cent sign (¢), percentage sign (%), or number sign (#) will be included with that number or character and do not count as a separate word, e.g., "50%" counts as one word, but "50 percent" counts as two words.

Appendix C

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION¹

TO THE HONORABLE _____ (see footnote²) _____ : Pursuant to § 11020, California Elections Code, the undersigned registered qualified voters of _____ (see footnote³) _____, in the State of California, hereby give notice that we are the proponents of a recall petition and that we intend to seek your recall and removal from the office of _____ (see footnote⁴) _____, in (see footnote 3). The grounds for the recall are as follows:

(STATE GROUNDS, 200 WORDS OR LESS)

The printed names, signatures, and residence addresses of the proponents are as follows:(The least possible number of proponents is 30, however, more than 30 may be required by law.)

NAME ADDRESS SIGNATURE

- 1. ...
- 2. ...
- 3. ...
- 4. ...
-
-
- 30. (or more. See footnote⁵)

Telephone number to contact proponents (optional)(_____) _____ - _____

The original notice and proof of service will be filed with the (see footnote⁶).

Elections Code § 11023. (a) Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the elections official, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents.

(b) If an answer is filed, the officer shall, within seven days after the filing of the notice of intention, also serve a copy of it, by personal delivery or by certified mail, on one of the proponents named in the notice of intention.

(c) The answer shall be signed and shall be accompanied by the printed name and business or residence address of the officer sought to be recalled.

1 Caution: The Notice of Intention must be published by proponents and proof of publication must be filed at the time of filing the two blank copies of the petition with the election official or, in the case of a recall of a state officer, with the Secretary of State. The Notice of Intention, publication and blank copies of the Petition will be compared and scrutinized for accuracy. Any deviation from the text of the Notice of Intention may result in rejection of the petition.

2 Insert here the name of the person whose recall is being sought.

3 Insert here the name of the county, city or district for the office.

4 Insert here the name of office held.

5 To determine the necessary number of proponents, see Elections Code § 11020(b).

Check with your election official to determine the actual number. Each proponent must provide their complete residence address, including street number, city, and ZIP Code.

6 Secretary of State, County Elections Official, City Clerk, Secretary of District, as appropriate.

Appendix D

PROOF OF PERSONAL SERVICE

I, _____ declare that:
(print full name)

At the time of service I was at least 18 years of age; My name, address and telephone number are as follows:

(print name)

(city, state, zip code)

(_____) _____ .
(telephone number)

I personally served to _____
(name of person sought to be recalled)

a copy of the Notice of Intention to Recall him/her by delivering the copy of the

Notice of Intention to him/her at: _____
(complete address)

on _____ at _____ am/pm;
(date) (time)

I have attached the original of the Notice of Intention to this Recall to this Proof of Personal Service.

I, _____, declare under penalty of perjury
(print full name)

under the laws of the State of California that the foregoing is true and correct, and that I,

_____ executed this proof of personal service:

On _____ at _____
(date) (place of signing, e.g., city or county)

(complete signature)

Appendix E

PROOF OF SERVICE BY CERTIFIED MAIL

I, _____ declare that:
(print full name)

I am over the age of 18 years, and I reside/am employed in _____
(name of county)

At _____
(complete address)

On _____, 20_____, I deposited in the mail at _____
(date) (year) (place, e.g., name of city or county)

A copy of Notice of Intention to Recall _____
(name of person sought to be recalled)

in a sealed envelope, with fully prepaid postage thereon for certified mail, addressed

to: _____
(name of officer sought to be recalled)

At: _____
(mail address)

I have attached the original of the Notice of Intention to this Proof of Service.

I, _____, declare under penalty of
(print full name)

perjury under the laws of the State of California that the foregoing is true and correct,

and that I executed this Proof of Service: On _____ at _____
(date) (place of signing, e.g., city or county)

(complete signature)

Appendix F

PETITION FOR LOCAL RECALL

TO THE HONORABLE _____,
(See note¹)

Pursuant to the California Constitution and California election laws, we the undersigned registered and qualified electors of the _____ of _____, California, respectfully
(See note²) (See note³)
state that we seek the recall and removal of _____, holding the office of _____,
(See note⁴) (See note⁵)
in _____, California. The following Notice of Intention to Circulate Recall
(See note²)
was served on _____ to _____:

(Date) (See note⁴)

(Insert complete text of Notice of Intention here)

The answer of the officer sought to be recalled is as follows:

(Insert Officer's Statement here—200 words or less)

(If no statement, insert "No Answer was Filed")

Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the _____
(See note²)
of _____, California.
(See note³)

NOTICE TO THE PUBLIC:

THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE
RIGHT TO ASK. [11-point non-boldface type (§ 101)]

Column must be
at least 1" wide

<p>1. Print Your Residential Name: _____ Address ONLY: _____ DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid.</p> <p>Sign As Registered To Vote: _____ City: _____ Zip: _____</p>	
<p>2. Print Your Residential Name: _____ Address ONLY: _____ DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid.</p> <p>Sign As Registered To Vote: _____ City: _____ Zip: _____</p>	
<p>3. Print Your Residential Name: _____ Address ONLY: _____ DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid.</p> <p>Sign As Registered To Vote: _____ City: _____ Zip: _____</p>	
<p>4. Print Your Residential Name: _____ Address ONLY: _____ DO NOT SIGN UNLESS you have seen Official Top Funders sheet and its month is still valid.</p> <p>Sign As Registered To Vote: _____ City: _____ Zip: _____</p>	

**DECLARATION OF PERSON CIRCULATING SECTION OF RECALL PETITION
(MUST BE IN CIRCULATOR'S OWN HANDWRITING)**

I, _____, solemnly swear (or affirm) all of the following:
(See note⁶)

1. That I am 18 years of age or older.
2. That my residence address, including street and number, is _____.
(If no street or number exists, a designation of my residence adequate to readily ascertain its location is.)
3. That the signatures on this section of the petition form were obtained between _____,
(Month and Day)
20_____, and _____, 20_____; that I circulated the petition and I
(Year) (Month and Day) (Year)
witnessed the signatures on this section of the petition form being written;
and that, to the best of my information and belief, each signature is the genuine signature of the person whose name it purports to be.
4. That I showed each signer a valid and unfalsified "Official Top Funders" sheet, as required by Elections Code § 107.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____, California.⁷
(Date) (City or Community Where Signed)

Circulator's Signature

Date

1 Insert here - Name of the appropriate governing body. The authority which orders or "calls" elections for that office, or the governing authority for that jurisdiction should be named.
2 Insert Electoral Jurisdiction here - County, City, District name, as appropriate.
3 Insert geographical location here - City, County, etc., as appropriate.
4 Insert here - Name of person whose recall is being sought.
5 Insert here - Name of office.
6 Insert here - Printed full name of person who gathered signatures.
7 The petition must be set in at least 8-point type. If signature spaces are printed on both sides of a sheet of paper, the above information, except for the declaration of circulator must appear on each side of the paper. The circulator's declaration must follow the last signature box. It is suggested that petition be printed on 8 1/2" x 14" paper in order to maximize the number of signatures spaces printed on a sheet of paper.

Appendix G

Format Rules for Petitions

- To ensure uniformity of size, darkness, and spacing, do not use bullets, CAPITALIZATION, bolding, or underlining in the Notice of Intent and the Answer. Any such emphasis may be removed on the petition to ensure uniformity.
- Font sizing should be no smaller than 8-point.
- Margins and other spacing rules must be strictly adhered to. There shall be no modifications to the Sample Petition provided by the Secretary of State, other than those allowable by law.
- No additional wording may be added to the petition that is not explicitly authorized on the Sample Petition.
- Proponent's names on the petition must be typed exactly as they appear on the Notice of Intent. For example, if no period is provided after a middle initial, then do not print a period on the petition.
- When printing the Answer, proponents must include "s/Name" in front of the incumbent's name to designate it as their signature. Following the name and separated by commas, the proponents must print the incumbent's contact information provided on the Answer.
- Grammatical errors, punctuation; and spelling errors on the filed Notice of Intent and Answer, will NOT be corrected. Such statements are printed as filed.
- Corrections will be made to the opening paragraph, signature spaces, and Declaration of Circulator to meet the requirements of law.
- The election official reserves the right to enact other rules that ensure uniformity. Any attempts to draw special attention to one area of the petition over others are not permitted.

Appendix H

REPRODUCTION OF A COUNTY OF HUMBOLDT LEGAL OPINION

MEMORANDUM

DATE: October 17, 1999

TO: Bruce Bolinger

County Clerk-Recorder

FROM: James G. Flageollet

County Counsel

SUBJECT: RECALL ELECTION

BACKGROUND:

The proponents of the recall effort sought to recall two judicial officers, the Honorable Ersel Edwards and the Honorable John Darlington.

Prior to the gathering of signatures, in reliance on the Secretary of State's handbook on recall, you advised the proponents that, should the recall be successful, successors to the above-referenced judicial offices would be selected by election.

Subsequent to submittal of the recall petitions, you had occasion to revisit the selection process issue. You were then advised that the California Constitution may preclude the election of a successor to a recalled superior court office.

You have requested an opinion from the Secretary of State. Pending receipt of such, you have asked that I review the issue.

QUESTION PRESENTED:

Should a superior court judge be recalled, is his/her successor elected or appointed by the Governor?

ANSWER:

The law is unclear. However, giving due regard to harmonizing the various constitutional and statutory provisions and other principles of statutory construction it is my opinion that the better reasoned position is that a successor to a recalled superior court judge is elected.

¹Since the petition to recall Judge Edwards from the Municipal Court office has been certified as insufficient, this memo will not discuss the impact of either trial court consolidation or S.C.A.4 (see Cal. Const. Art. 6 sec. 23). should such be approved by the voters.

ANALYSIS:

Elections Code § 11041 (a) provides that the contents of a recall petition shall include:

"(1) A request that an election be called to elect a successor to the officer. However, if the officer is a justice of the Supreme Court or of a court of appeal, as specified in subdivision (a) of § 16 of Article VI of the California Constitution, the request shall be that the Governor appoint a successor to the officer."

That section appears to require, except for Supreme Court and Court of Appeal justices, that successors to a recalled officer shall be elected. You apparently based your initial advice on that code section.

Subsequently, you were advised of California Constitution Article 6, § 16(c), which provides:

"Terms of judges of superior courts are 6 years beginning the Monday after January 1 following their election. A vacancy shall be filled by election to a full term at the next general election after the January 1 following the vacancy, but the Governor shall appoint a person to fill the vacancy temporarily until the elected judge's term begins."

These two apparently irreconcilable provisions may be capable of explanation by analysis of the term "vacancy". The California Constitution does not include a definition of the term "vacancy". However, the Government Code does define the events causing vacancy.

Government Code § 17770 includes an exhaustive list of events causing a vacancy in office prior to expiration of a term. Identified events include death, resignation and ceasing to be an inhabitant of the State. Removal by recall is not identified in Government Code § 1770 as an event causing a vacancy. However, subdivision (d) does identify "removal from office" as such an event.

It is my opinion that "removal from office" is a specific term of art which defines the methods (e.g. impeachment ; accusation) for removal from office commencing at Government Code § 3000.

I acknowledge that both the Constitution (see Cal. Const. Art. 2, sec. 13) and the Elections Code (see Elections Code sec. 11384) in the context of recall use the term "remove from office". However, the term as used therein specifically refers to the constitutional right of recall and the statutory implementation of such as opposed to the more specific "for cause" reasons identified by Government Code § 3000 et seq., entitled "removal from office". The right of the electorate to remove by recall is a specific process so distinct from the "removal of office" process, identified by Government Code § 3000, that it is likely that the legislature would have specifically included "recall" as an event causing vacancy, had it intended such.

To give meaning to the provisions of Elections Code § 11041 (a)(1) (only Supreme Court/Court of Appeal justices are appointed), it is my opinion that the legislature was aware of the above referenced Constitutional and Government Code provisions and did not consider removal by recall to constitute a "vacancy", as that term is intended by the Constitution. The alternative is to find that the legislature enacted an unconstitutional statute.

In addition to the foregoing the term of office for the superior court office may present an issue. The Constitution provides for a term of six years. A vacancy in the term is filled by election to a full term, however, the Governor makes an appointment to fill the vacancy temporarily. (See Cal. Const. Art. 6, sec. 16[c].) On the other hand, Elections Code § 11385 provides that if the officer is recalled, the successor shall be elected to fill the unexpired term. The only logical explanation appears to be the conclusion that the elector's constitutional right to recall and the implementing statutes do not constitute a "vacancy", as that term is used in California Constitution Article 6, §16.

What does the foregoing mean?

It would appear that your initial advice and the recall proponents adherence to such was the safest course. If the Elections Code, in fact, does not allow a successor to be elected to a superior court office the proponents suffer no prejudice (i.e. the recall occurs and the election provision of the statute is unconstitutional). However, if a successor is to be elected pursuant to the Elections Code the proponents, by following your initial advice and requesting an election, have facilitated such.

Of course, the resolution of the issue becomes moot if the recall petition is deemed insufficient. Nomination papers and declarations of candidacy are not filed before the order of election is issued (see Elections Code § 11381).

Should the petition for the superior court position be deemed sufficient, I will be pleased to, in conjunction with the Secretary of State's office, revisit this complex issue in a timely manner.