

LOS ANGELES COUNTY

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# A GUIDE TO RECALL



For County, School District, Special District and Local Judicial Offices

This reference guide has been prepared in an effort to provide answers to frequently asked questions. It is for general information only and does not have the force and effect of law.



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# A GUIDE TO RECALL

## For County, School District, Special District and Local Judicial Offices

### I. INTRODUCTION

**Note:** Due to the complexity of the recall process, all parties involved are advised to seek private legal counsel.

#### 1. Use of this Guide

This guide is intended to provide basic, useful facts about the recall process for county, city, school district, special district, community college district and judicial (superior court) elected offices. For the recall of city officeholders, contact that city's Office of the City Clerk directly. For the recall of state officeholders, see the "*Procedure for Recalling State and Local Officials*" published by the Office of the Secretary of State and available on their website: <http://www.sos.ca.gov/elections/recall.pdf>. Federal officeholders are not subject to recall.

This guide (and the included appendices) should be used in conjunction with:

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

Except as otherwise specified, the code sections referred to in this guide with the section number symbol (§) are those of the California Elections Code.

Except as otherwise specified, references to the number of days means *calendar* days, e.g., "the officer's answer to notice of intention to recall, is due within seven [calendar] days after the filing of the notice of intention by the proponents."

#### 2. What is a Recall and What Circumstances Justify It?

The California Constitution defines a recall as "the power of the electors to remove an elective officer" (Art. II, Sec. 13). Neither the California Constitution nor the Elections Code states under what circumstances a recall is justified. Instead, the Constitution states, in connection with the recall of state officers, "sufficiency of reason is not reviewable" (Art. II, Sec. 14). The only language in the Elections Code that has any bearing on this is in §11024. Referring to the proponents' statement of reasons for the recall and the officer's answer, it states 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."

#### 3. Who Can be Recalled?

Any elective officer, including any officer appointed in lieu of election or to fill a vacancy (§11006).

#### **4. Circumstances Under Which a Recall is Prohibited**

Except when a person has been appointed to office pursuant to §10229 (because no person has been nominated to office), a recall may not be commenced against an officer if one or more of the following conditions apply (§11007):

- The officer has not held office during his or her current term for more than 90 days.
- A recall election has been decided in the officer's favor within the last six months.
- The officer's term of office ends within six months or less.

#### **5. Who Conducts the Recall Election?**

The county elections official (i.e., the County Clerk or Registrar of Voters) conducts the election in the case of the recall of elective officers of a county, school district, county board of education, community college district, resident voting district and judges of trial courts (§11002). However, in the event that the county elections official is the officer whose recall is being sought, then the duties imposed upon him or her shall be performed by some other person designated by the Board of Supervisors (§11201).

#### **6. Who Can Initiate a Recall?**

Any qualified elector may initiate a recall. A qualified elector is defined as a registered voter of the jurisdiction who is eligible to vote for the officer he/she seeks to recall (§§11005 and 322).

#### **7. Steps to Initiate a Recall**

Each recall is a separate process and requires successful completion of specific steps (described on the flow chart in [Appendix A](#)). Please note if there are three separate officers to be recalled, three of each of the following documents must be prepared by the proponent(s) of the recall (§§11021 and 11044):

- Notice of Intention
- Affidavit of Time and Manner of Service
- Affidavit of Proof of Publication (or Posting, if applicable) of the Notice of Intention
- Set of Two Blank Copies of the Proposed Petition Formats
- Recall Petition

Any error or discrepancy in following any of the steps in connection with a particular recall may require that some or all steps taken up to that point be done over. Again, recall proponents may wish to consult an attorney to help them avoid such errors.

When multiple recalls are under way, petition circulators will typically circulate several petitions, and request voters to sign each of however many petitions are involved. Not all voters will choose to sign each petition, meaning that when the petitions are filed with the county elections official, the total number of signatures submitted for each recall petition may vary.

## **8. Cost of a Recall**

The cost of a recall election is charged to the government agency whose officials are sought to be recalled. Jurisdictions that are responsible for the administration of elections may contact the county elections official for an estimate of the cost. If the recall election can be consolidated with a regularly scheduled election or another special election, the cost may be considerably reduced.

## **II. INITIATING THE RECALL**

### **1. Preparing the Notice of Intention**

The initial step for proponents interested in recalling an elected officer is the drafting of a Notice of Intention (§11020). The Notice of Intention must consist of the following:

- The name and title of the officer to be recalled.
- A statement, not to exceed 200 words in length, expressing the reasons for the proposed recall. (See [Appendix B](#) for the rules on counting words.)
- The printed name, signature, and residence address of each of the proponents of the recall. **Note:** If a proponent cannot receive mail at his or her residence address, an alternate mailing address should be provided.
- The language contained in §11023 informing the officer of his or her right to file an answer.

A sample Notice of Intention form is included in [Appendix C](#). The number of proponents required to sign the Notice of Intention is ten (10) or equal to the number of signatures required to be filed on the nomination petition for the office of the incumbent whose recall is being sought, *whichever is higher* (§11020). For example, in the case of a county elected office, the minimum number of signatures required on the nomination petition is 20 (§8062(a)(3)); hence the minimum number of proponents required to sign the recall's Notice of Intention is 20.

All proponents must be registered to vote in the jurisdiction and eligible to vote for the officer they seek to recall (§11005).

### **2. Serving the Notice on the Officer**

A *copy* of the Notice of Intention must be served by personal delivery or by certified mail on the officer sought to be recalled (§11021). If serving by certified mail, recall proponents are advised to obtain from the county elections official the officer's most current and correct mailing address.

### **3. Filing the Notice and Proof of Service**

The *original* Notice of Intention must be filed with the county elections official within seven (7) days of the officer having been served, along with an affidavit of time and manner of service. (See [Appendices D and E](#) for examples of affidavits used for personal delivery and certified mail, respectively.) A separate Notice of Intention shall be filed for each officer sought to be recalled.

The affidavit of Proof of Service by Certified Mail ([Appendix E](#)) attests to the date the Notice of Intention was *mailed*, the name of the officer sought to be recalled (e.g., School District Superintendent) and his or her mailing address.

**Note to elections official:** It is recommended on the day a Notice of Intention and affidavit of service are filed, that you immediately: (1) notify the governing body of the jurisdiction of the officer sought to be recalled of the filings; (2) communicate to the governing body of the officer the seven-day deadline for filing an answer; and (3) offer to provide the officer a copy of the filings, upon request.

#### **4. Publishing the Notice**

Proponents are also required to publish, at their expense, the Notice of Intention at least once in a newspaper of general circulation serving the jurisdiction of the officer whose recall is being sought (§§11020 and 11022; Government Code §6061, et. seq.). Proof of publication is required at the time blank copies of the petition are filed (§11042(b)). The proponents must request and obtain from the newspaper a signed affidavit proving publication. This document will need to be filed with the county elections official within 10 days after the filing of the answer to the Notice of Intention (§11042).

If publication is not possible, the Notice of Intention shall be posted in at least three public places within the jurisdiction of the officer whose recall is being sought. (Posting is allowed only if there is no newspaper of general circulation able to provide timely publication). If posting is used, an affidavit attesting to the postings will be required to be filed with the county elections official.

#### **5. Officer's Answer**

The officer has the right to provide a response to the Statement of Reasons contained in the proponents' Notice of Intention (§11023). Should the officer choose to file an answer, the response is limited to 200 words and must be filed with the county elections official within seven (7) days after the filing of the Notice of Intention by the proponents. The answer must be signed by the officer and must include the officer's printed name and business or residence address. Within that same seven (7) day period, the officer shall also serve a copy of his or her response on one of the proponents named in the Notice of Intention. Service is to be by personal delivery or certified mail (§11023). (There is no requirement that the officer file any proof of service with the county elections official.)

**Note to proponents:** In the event that the officer's answer is not received by any proponent, contact the county elections official as the officer's answer must also be filed there by the same deadline. It is the proponents' responsibility to verify with the county elections official whether or not an answer has been filed, prior to proceeding to the next step in the recall process.

#### **6. Campaign Finance Reporting**

Both the recall proponents who organize to qualify a recall for the ballot as well as those who organize to oppose such a recall effort will have campaign disclosure and filing obligations under state law. **See Section X, Part 7, "Campaign Finance Reporting Requirements and Limitations"** for additional information.

### III. BUILDING THE PETITION

#### 1. Overview

The language and design of the recall petition are strictly controlled by the Elections Code (§§100, 100.5, 11040, 11041, 11043, 11043.5 and 11046).

See [Appendix F](#) for a sample recall petition form. This sample is also provided in "*Procedures for Recalling State and Local Officials*" published by the Secretary of State.

**Important note:** Before proceeding with the circulation of any recall petition, the proponents are required to file two blank copies of the petition format with the county elections official for its review **and approval** as to whether the petition conforms to the requirements of the Elections Code (§11042).

#### 2. Format of the Recall Petition

The recall petition format provided by the Secretary of State or county elections official is mandatory and must be used (§§11041 and 11043.5).

The recall petition may consist of any number of separate sections, which must be duplicates except as to signatures and matters required to be affixed by 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 (§11040).

##### a. Heading

A margin at least one inch wide shall be left across the top of each page and a margin at least one-half inch wide shall be left blank along the bottom of each page (§§100 and 11043). All petition sections must be printed in uniform size and darkness with uniform spacing (§11041). On each page, in no less than 8-point type, there must appear:

- Language requesting that an election be called to elect a successor.
- Copy of the Notice of Intention, including the statement of reasons for the recall. (The Notice of Intention which appears on the petition must be identical to what was published, with the exception of the language pertaining to the officer's right to file an answer) (§11021).
- The **names** of at least ten (10) of the proponents listed on the Notice of Intention (signatures and addresses do not need to be included).
- The officer's answer, if any. If no answer was filed, the petition must so state.

##### b. Signature Space

Immediately above the signature space(s), the following statement shall appear: "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., Mountain Water Agency, Division 1*] of [*insert name of geographical location, e.g., County of Los Angeles*], California."

**Note to proponents:** 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 (§11047).

The petition must be designed so that each signer can personally affix his or her:

- printed name
- signature
- residence address, including street and number, or if no street or number exists, adequate designation of residence so that the location may be readily ascertained
- name of the incorporated city or unincorporated community in which he or she resides (§11043)

Pursuant to the California Supreme Court's decision in Assembly v. Deukmejian (1982) 30 Cal.3d 638, 180 Cal.Rptr. 297, the petition form must direct signers to include their "residence address" rather than "address as registered" or other address. Noncomplying petition forms will be rejected as invalid.

Signature spaces must be consecutively numbered, commencing 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 the use of the county elections official in verifying the petition.

### **c. Declaration of Circulator**

Each section of the petition must have attached to it a declaration signed by the circulator (person soliciting signatures) of that section of the petition, setting forth in the circulator's own hand, all of the following (§§104 and 11046):

- the printed name of the circulator
- the residence address of the circulator, including street and number, or if no street exists, adequate designation of residence so that the location may be readily ascertained
- the dates between which all signatures to the petition were obtained

The declaration signed by the circulator must also include the following statements:

- the circulator circulated that section and witnessed the appended signatures being written and 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.
- the circulator is a registered voter in the electoral jurisdiction of the officer sought to be recalled.
- 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 his or her signature.

### **3. Filing of Blank Copies of the Petition and Proof of Publication**

Two blank copies of the recall petition must be filed with the county elections official within ten (10) days after the filing of the officer's answer, if any. If no answer was filed, the copies are due within ten (10) days after the deadline for the officer to file an answer (§11042). The affidavit attesting to the proof of publication (or posting, as applicable) of the Notice of Intention is also due at this time (§11042).

### **4. Review and Approval of the Petition Format**

The county elections official shall review the petition format within ten (10) days of its filing and notify the proponents in writing that the petition is either approved for circulation or requires modification (§11042). If changes are necessary, the proponents shall, within ten (10) days of receiving notification from the county elections official, file two blank copies of the *corrected* petition with the county elections official. This 10-day period for notifying the proponents of corrections and 10-day filing period for proponents to submit corrected petitions shall be repeated until the county elections official finds that no further alterations are necessary (§11042).

**Note to elections official:** As a courtesy, the jurisdiction should also be notified when he petition format is approved.

## **IV. SIGNATURE REQUIREMENTS AND CIRCULATION DEADLINES**

### **1. When Circulation of the Recall Petition May Begin**

Proponents may not begin collecting signatures until the form and wording of the recall petition has been approved by the county elections official as meeting the requirements of the Elections Code (§11042(d)). The time period available for circulating the petition is measured from the day the county elections official notifies the proponents that the petition meets the form and wording requirements (§11220(a)).

### **2. Number of Days to Circulate Petition**

The circulation period for a recall petition is calculated on a sliding scale based on the number of registered voters in the electoral jurisdiction eligible to vote for the officer subject to recall (§11220), as follows:

<b><u>Registration</u></b>	<b><u>Number of Days to Circulate</u></b>
Under 1,000	40
1,000 - 4,999	60
5,000 - 9,999	90
10,000 - 49,999	120
50,000 and above	160

### **3. Number of Signatures Needed**

The number of valid signatures required on a recall petition to qualify and trigger a recall election is also calculated on a sliding scale based on the number of registered voters in the electoral jurisdiction eligible to vote for the officer subject to recall, as follows (§11221):

<b><u>Registration</u></b>	<b><u>Signatures Needed (as % of Total Registered Voters)</u></b>
Under 1,000	30%
1,000 - 9,999	25%
10,000 - 49,999	20%
50,000 - 99,999	15%
100,000 and above	10%

The number of registered voters shall be determined using the last official report of registration submitted by the county elections official to the Secretary of State prior to the approval of the petition for circulation (§11221(b)).

An exception to the above occurs in the case of superior court judges, where the signature requirement is 20% of the total number of *votes cast* for all candidates in the last election for that office (Cal. Const. Art. II, Sec. 14(b)).

Often, incumbent superior court judges may not appear on the ballot for several election cycles because they had no opposition in the election (§8203). The number of signatures needed on the recall petition is then calculated as 20% of the total number of votes cast *within that judicial jurisdiction* (countywide for Superior Court, for example) for the countywide office (e.g., Sheriff or District Attorney) which had the *least* number of votes in the most recent general election. "Countywide office" is defined as "an elective office wholly within the county, which is voted on throughout the county" (§11221).

### **4. Withdrawal of Signatures from Petitions**

Any voter who has signed a recall petition who wishes to have his or her signature withdrawn from the petition may file a written request with the county elections official no later than the day before the petition is filed (§§103 and 11303).

The written request must identify the subject of the recall petition, clearly indicate the requestor indeed signed such petition and contain the person's name, residence address and signature.

**Note:** The county elections official will have no way of knowing for sure when the proponents will choose to file their recall petitions. Consequently, the county elections official will not be able to advise persons who wish to withdraw their signatures regarding any "deadline" for filing their requests – other than the fact that the request must be received no later than the day before the petition is filed.

## V. COLLECTING SIGNATURES

### 1. Who Can Circulate a Recall Petition?

Registered voters in the jurisdiction who are qualified to vote for the officer sought to be recalled (§11045).

### 2. Who Can Sign a Recall Petition?

Only registered voters who, at the time of signing the recall petition, are qualified to vote for the officer whose recall is sought, can sign a recall petition (§§322 and 11045). Each signer must personally sign and print his or her name and *residence* address, including street and number (or, if no street and number exists, an explanation of how to locate the place of residence) (§§100, 322 and 11045).

A voter who is *physically unable* to sign a petition may request someone else to print the voter's name and residence address on the petition. The voter must then affix his or her mark in the appropriate space on the petition, and have two persons witness the mark by signing their names on the same line next to the mark (§100.5, Govt. Code 16). According to the Secretary of State's legal counsel, the witnesses do not have to be registered to vote, and the circulator may also 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. (See §11047 and **Section III, Part 2, "Format of the Recall Petition"** for additional information.)

### 3. Registering or Re-registering Potential Signers

For potential signers who are eligible but currently not registered to vote, or for those who are registered but have since moved, completing a voter registration card will ensure his or her signature on a recall petition can be counted as valid. For this to work, 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 by the county elections official on or before the date the petition is filed (§2102(b)).

**Note to proponents:** It will assist the county elections official in verifying signatures on the petition if the circulator notes in the left hand margin of the petition, adjacent to the signature, the affidavit numbers of the newly-completed registration cards and notifies the county elections official 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 county elections official within three (3) days of receipt from the voter (§2138).

### 4. Declaration of Circulator

The circulator must personally affix – in his or her own handwriting – his or her printed name and residence address and the specific dates of circulation of each petition section in every circulator's affidavit. Preprinted dates or generalized dates, other than the particular range of dates on which the petition section was circulated, are not authorized (§§104 and 11046).

## **5. Including a "Cushion" to Allow for Invalid Signatures**

Proponents need to allow for invalid signatures by including extra signatures above and beyond the minimum needed to qualify the petition.

## **6. Causes of Invalid Signatures**

Signatures that appear on the petition may be determined to be invalid for a number of reasons. Some of the most common are listed below (§§100, 105, 321 and 359):

- The signer is not eligible to vote for the officer whose recall is being sought.
- The signer has moved since last registering to vote and failed to re-register.
- The signer writes in a P.O. Box or business address as his or her address of residence.
- The signer signs the petition more than once. Only the first signature encountered during verification will count; moreover, any duplicate signatures found in the "random sample" are penalized under the sufficiency formula (see **Section VII, "Verification of Petition Signatures"** for additional information).
- The residence address appearing on the petition was "pre-printed" and not written in personally by the signer.
- The signer's signature does not appear to match the signature on the voter registration card on file with the county elections official.

**Note:** Certain defects in the declaration of the circulator, such as failure of the circulator to sign the declaration (see §§104 and 11046), may invalidate all signatures appearing on that section. Recall proponents should advise their circulators of the importance of fully and accurately completing the declaration. Circulators should be advised that under no circumstances should they make any changes or "corrections" to the signatures or addresses that the voters have written on the petition.

In verifying petitions, the county elections official may use the most current version of the Secretary of State's *"Official Petition Verification Guidelines."*

## **7. Legibility of Signatures**

To ensure that signatures are readable, use a firm writing surface beneath the petition page being signed and ball point pens, not felt tip markers. If circulating recall petitions against multiple officeholders, printing the recall petitions on lightly-tinted colored paper with a different color for each office is suggested.

## **8. Circulation of Recall Petitions on Private Property**

Petition circulators often seek to circulate petitions at shopping centers and other private property. As shopping centers are private property, the courts have had to balance the private property rights of the shopping center owners against the free speech and petition rights of petition circulators. Both supporters and opponents of a recall are advised to contact the property manager or owner in advance of circulating petitions and to seek legal counsel when issues arise as to their speech and petitioning rights at shopping centers or private property.

## **9. Penal Provisions**

The following are selected penal provisions relating to circulation of recall petitions. (See §§18600 et seq. for all the relevant code sections.)

### **a. Provisions Relating to Circulators**

It is a misdemeanor for anyone circulating a recall petition to intentionally misrepresent or make a false statement concerning the contents, purport, or effect of any petition to any person who signs, desires to sign, is requested to sign, or who makes inquiries with reference to it, or to whom it is presented for his or her signature. It is also a misdemeanor to willfully and knowingly circulate, publish, or exhibit any false statement or misrepresentation concerning the contents, purport, or effect of any recall petition for the purpose of obtaining any signature to, or persuading or influencing any person to sign, that petition (§18600).

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 (§18601).

Every person who offers or gives money or other valuable consideration to another in exchange for his or her signature on a recall petition is guilty of a misdemeanor (§18603).

No one shall knowingly or willfully permit the list of signatures on a recall petition to be used for any purpose other than qualification of the recall question for the ballot. Violation is a misdemeanor (§18650).

### **b. Provisions Relating to Fraudulent Signatures**

Every person who solicits any circulator to affix to a recall petition any false or forged signature, or causes or permits a false or forged signature to be affixed, is guilty of a misdemeanor (§18610).

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 incarceration in a county jail not exceeding one year, or by both fine and imprisonment (§18611).

Every person who knowingly signs his or her name more than once to a recall petition, or signs his or her name to that petition knowing himself or herself at the time of signing not to be qualified to sign it, is guilty of a misdemeanor (§18612).

Every person who subscribes to any recall petition a fictitious name, or who subscribes thereto 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 (§18613).

Every person who files with the county elections official any recall petition to which is attached 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 incarceration in a county jail not exceeding one year, or by both the fine and imprisonment (§18614).

**c. 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 threatens 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 (§18630).

**VI. FILING THE RECALL PETITION**

All sections of the recall petition circulated within a particular county must be filed at the same time with that county's elections official. 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 (§11222(a)). 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 petition will not be accepted for filing and will be returned to the proponents (§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 his or her examination, the number of registered voters of the county residing within the electoral jurisdiction of the officer sought to be recalled (§11223).

**VII. VERIFICATION OF PETITION SIGNATURES**

The county elections official has 30 days from the date of the filing of the petition in which to examine it and determine the total number of valid signatures (§§11224 and 11225). The examination involves verifying the validity of all the signatures on the petition (§11224) or verifying a random sample of 500 or 5%, whichever is greater, and determining the sufficiency of the petition through the statistical method provided in §11225. To save time and money, elections officials typically 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%, the petition will be certified as sufficient (§11225).

## **VIII. CERTIFYING THE RESULTS OF SIGNATURE VERIFICATION**

### **1. 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 (§11226).

No insufficiency in a petition against any officer shall bar the later filing of a new petition against that officer (§11300).

### **2. Sufficient Number of Valid Signatures**

If the petition is found to have a sufficient number of valid signatures to qualify the recall for the ballot, the county elections official will immediately certify the results of the signature examination to the governing body for consideration at its next regular meeting (§§11224, 11225 and 11227). The certificate shall contain all of the following:

- the name of the officer whose recall is sought
- the title of his or her office
- the number of signatures required by law
- the total number of signatures on the petition
- the number of valid signatures on the petition
- the number of signatures that were disqualified

### **3. Restrictions on Access to Recall Petitions**

Some voters may have concerns about possible harassment if they sign an initiative, a referendum, and/or a recall petition. Government Code Sec. 6253.5 provides that such petitions (and any memoranda prepared by the elections official in examining the petitions) are not deemed to be public records and are not open to inspection. There are two exceptions:

- Employees of the county elections official responsible for verifying the signatures; and
- Recall proponents, should the petition be deemed insufficient and fail to qualify for the ballot. In that event, proponents have the right to examine those signatures found to be invalid and the reasons therefore. "Proponents" are those individuals listed on the Notice of Intention (or a person authorized in writing by the proponent.) Any such examination shall begin within 21 days following a certification of insufficiency (§11301).

## **IX. RESIGNATION OF OFFICER**

If the officer whose recall is being sought resigns (or a vacancy occurs for any other reason) at any time following the filing of the recall petition, the recall process will nevertheless proceed. Anyone appointed to fill the vacancy serves only until a successor is selected and qualifies for the office (§11302).

## **X. THE RECALL ELECTION**

### **1. Calling the Election**

Within 14 days after the meeting at which the governing body considers the certificate of sufficiency received from the county elections official, the governing body is to issue an order calling for an election (§11240). If the governing body fails to act within those 14 days, the county elections official shall call for the election within five days. A recall election shall be conducted, canvassed, and the results declared in substantially the manner provided by law for a regular election for the office (§11328). One election is sufficient for the recall of several officers (§11329). If the recall is to be voted on by voters in more than one county, the elections official of the county with the largest number of registered voters who will be voting in the election shall set the date in consultation with elections officials of the other counties (§11241).

In any case, the election must be held between 88 and 125 days from the date of the order (§11242). Also, no election shall be held on any day other than Tuesday or the day before, the day of, or the day after a state holiday (§1100).

**Note:** If a regular or special election is to be held throughout the electoral jurisdiction of the officer sought to be recalled within this time period, the recall election shall be held on the same day (§11242).

### **2. Filing Requirements for Candidates**

Once the recall election is called, there will be a nomination period for candidates to file for election to that office.

**Exception:** Although it is clear that superior court judges are subject to recall, Article VI, Section 16 of the California Constitution creates some legal uncertainty as to whether the successor to a recalled judge is elected by the voters or appointed by the Governor. If it is the latter, obviously the need for a contest involving successor candidates is eliminated. This question was first raised in 1997 in Nevada County but was never resolved since the recall petition never qualified for the ballot. Therefore, it is suggested that elections officials seek their own legal counsel to clarify this issue, should it arise.

The nomination period must not open before the day the order of election is issued and must close no later than the 75th day before the election. If the county elections official is required to certify to the governing board the names of candidates to be placed on the ballot, it shall be done by the 71st day prior to the election (§11381(b)). The officer whose recall is being sought may not be a candidate to succeed himself/herself or any other member of the same governing board that is also the subject of recall (§11381(c)). However, he or she may submit a statement for publication in the sample ballot booklet (§§11327, 13307).

**Note:** The nomination period for recall elections may very likely be truncated. For example, the election could be called to be held in the minimum 88 days. Since the nomination period under any circumstances must close on the 75th day (§11381b), the nomination period will consist of just 14 days.

Nomination petitions may or may not be required of candidates, depending on the office held by the incumbent. The number of nominating signatures, if any, will be the same as required of

candidates seeking that particular office in a regular election (§11381). Check with the county elections official regarding this requirement.

There are no filing fees for school or special district offices. The filing fee for County Supervisor and other countywide offices is 1% of the officer's annual salary (§8104(b)).

**a. Signature in Lieu of Filing Fee Petitions**

If there is a filing fee, petitions in lieu of payment of that fee must be made available to candidates, who may circulate these petitions and gather signatures for credit to offset the fee.

**b. Candidate Qualifications**

In addition to filing nomination documents (declaration of candidacy and nomination petition), each candidate may have to provide documentation concerning his or her qualifications (§13.5).

**c. Candidate Statements**

Candidate statements for publication in the sample ballot booklet are optional. The cost of statements in a recall election will be determined by the county elections official once the election has been called. For candidates, the statement is due at the time his or her nomination papers are filed (§13307(a)(2)). The officer whose recall is being sought may also submit a statement for inclusion in the sample ballot booklet (§11327). The statement must be filed no later than 5:00 p.m. on the last day of candidate filing.

**Note to elections official:** Notify the officer of his or her right to submit a statement and the deadline for filing.

All candidate and incumbent statements shall remain confidential until the close of the filing period at 5:00 p.m. on the last day of candidate filing.

**3. Design of the Ballot**

The question on the ballot will be: "Shall [name of officer sought to be recalled] be recalled (removed) from the office of [title of office]?" with the voter marking either "Yes" or "No" (§11320). Below the question will appear the names of the candidates who have filed to seek election to the office, in the event the recall is successful. Appropriately identified write-in spaces must also be provided (§11322).

If there are multiple recalls that have qualified for the ballot, the list of candidates to succeed to one office would be followed by the recall question for the next office, and so on. Candidates will be listed in randomized alphabet order based upon a drawing of letters by the Secretary of State. In the case of candidates for countywide office, they will be listed in randomized alphabet order and then rotated in conformance with §§13111(g) and 13112.

#### **4. Official Sample Ballot Booklet**

The Official Sample Ballot Booklet shall include both the statement of reasons for the recall (from the Notice of Intention) and the officer's answer, if one was filed. The statement and answer shall be printed on the same page or on facing pages and shall be of equal prominence (§11325).

If the recall of more than one officer is sought, the statement and answer for each shall be printed together and clearly distinguished from those of any other (§11325).

#### **5. Majority Vote Required to Recall the Officer**

If the majority vote is "yes" on the question to recall, the officer shall be removed from office upon the certification of election results and the swearing-in of his or her successor (§11384).

#### **6. Plurality Vote to Elect a Successor**

If the officer is recalled, the candidate receiving the greatest number of votes shall be elected to the remainder of the recalled officer's term. There is no runoff election (§11385).

If the candidate with the highest number of votes fails to qualify within ten days after receiving his or her certificate of election, the office to which he or she was elected shall be vacant, and shall be filled according to law (§11386).

#### **7. Campaign Finance Reporting Requirements and Limitations**

The recall proponents who organize to qualify a recall for the ballot and those who oppose the recall effort, as well as any candidates, will have to meet the filing obligations and campaign disclosure requirements required by the state Political Reform Act, and any additional limitations or requirements established by local ordinance. It is imperative for all parties involved with a recall to check with the county elections official on any and all applicable state and local laws in this regard.

To obtain additional information about specific disclosure requirements, contact the state Fair Political Practices Commission (FPPC), which enforces the Political Reform Act, by phone at (916) 322-5660. The FPPC's address is 428 "J" Street, Room 450, Sacramento, California 95814 and the website is: [www.fppc.ca.gov](http://www.fppc.ca.gov).

### **XI. AFTER THE ELECTION**

#### **1. Repeating a Recall if the Officer is Not Recalled**

If the recall election is conducted and the officer is not recalled, a new recall may not be commenced against the officer within six months of that election nor during the last six months of the officer's term of office (§11007).

## **2. Right of the Recalled Officer to Run in Future Elections**

A successful recall election applies only to the current 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 an election for a subsequent term of office.



# Appendix B

## WORD COUNTING GUIDELINES

(Elections Code Chapter 1 General Provisions, Section 9)

The following guidelines are used by the Registrar-Recorder/County Clerk's Office for counting words on candidate statements, ballot measure text, arguments, rebuttals and other ballot enclosures. The guidelines do **not** apply to ballot designations for candidates. If the text exceeds the specified 200 or 400 word limit, the author will be asked to delete words or change text until the statement conforms with requirements.

1. **PUNCTUATION MARKS** are not counted. Symbols such as "&" (and), and "#" (number/pound) are not considered punctuation and each symbol is counted as one (1) word.
2. **THE WORDS** "I", "a", "the", "and", "an" are counted as individual words.
3. **GEOGRAPHICAL NAMES** such as countries, states, counties, cities, towns, or jurisdictions are counted as one (1) word.  
**EXAMPLE:** "City of Los Angeles" = 1 word  
"City and County of San Francisco" = 1 word
4. **ABBREVIATIONS** such as acronyms or abbreviations for a word, phrase, or expression are counted as one (1) word.  
**EXAMPLE:** UCLA, PTA, USMC, LAPD, U.S.M.C.
5. **HYPHENATED WORDS** that appear in any generally available standard reference dictionary published in the U.S. at any time within the last 10 calendar years immediately preceding the election are counted as one (1) word.  
**EXAMPLE:** Attorney-at-law
6. **DATES...** consisting of a combination of digits are counted as one (1) word.  
**EXAMPLE:** 3/18                      7/21/89  
**DATES...** consisting of a combination of words and digits are counted as two (2) words.  
**EXAMPLE:** July 21, 1983                      18 June, 1987
7. **NUMERIC COMBINATIONS** are counted as one (1) word.  
**EXAMPLE:** 1973                      13 1/2                      1971-73                      5%                      8/3/73                      #14
8. **MONETARY AMOUNTS** consisting of a combination of digits are counted as one (1) word.  
**EXAMPLE:** \$1,000.00  
**MONETARY AMOUNTS** consisting of a combination of words and digits are counted as two (2) words.  
**EXAMPLE:** \$4 million
9. **NAMES OF PERSONS AND THINGS** are counted as individual words.  
**EXAMPLE:** Gus Enwright                      (2 words)  
L. A. Basketball Team                      (3 words)
10. **TELEPHONE/FAX NUMBERS** are counted as one (1) word.  
**EXAMPLE:** 1-800-815-2666                      1-562-462-2317
11. **INTERNET WEB SITES/E-MAIL ADDRESSES** are counted as one (1) word.  
**EXAMPLE:** <http://www.co.la.ca.us>                      [www.lavote.net](http://www.lavote.net)                      <http://www.lacounty.info>

# Appendix C

## NOTICE OF INTENTION TO CIRCULATE RECALL PETITION<sup>1</sup>

TO THE HONORABLE \_\_\_\_\_ (see footnote<sup>2</sup>) \_\_\_\_\_: Pursuant to Section 11020, California Elections Code, the undersigned registered qualified voters of \_\_\_\_\_ (see footnote<sup>3</sup>) \_\_\_\_\_, 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 footnote<sup>4</sup>) \_\_\_\_\_, in \_\_\_\_\_ (see footnote 3) \_\_\_\_\_, California, and to demand election of a successor in that office (see footnote<sup>5</sup>).

The grounds for the recall are as follows:

(STATE GROUNDS, 200 WORDS OR LESS)

The printed names, signatures, and business or residence addresses of the proponents are as follows:(The least possible number of proponents is 10, however, more than 10 may be required by law.)

NAME	ADDRESS	SIGNATURE
1. ...		
2. ...		
3. ...		
4. ...		
.....		
.....		
10. .... (or more. See footnote <sup>6</sup> )		

Telephone number to contact proponents (optional)( \_\_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

A copy of this notice and proof of service will be filed with the \_\_\_\_\_ (see footnote<sup>7</sup>) \_\_\_\_\_. You may file an answer to the statement of the proponents with the \_\_\_\_\_ (see footnote 7) \_\_\_\_\_ within 7 days after the notice is filed. It may not be more than 200 words. If an answer is filed, a copy of it must also be served personally or by certified mail within that same 7day period on one of the above proponents. The answer shall have the printed name, signature, business or residence address of the officer sought to be recalled.

<sup>1</sup> 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.  
<sup>2</sup> Insert here the name of the person whose recall is being sought.  
<sup>3</sup> Insert here the name of the county, city or district for the office.  
<sup>4</sup> Insert here the name of office held.  
<sup>5</sup> If it is the recall of an Appellate Court Justice the request shall be that the Governor appoint a successor to the office.  
<sup>6</sup> At least ten are required. In many cases more than ten are required. Check with your election official to determine the actual number.  
<sup>7</sup> 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 \_\_\_\_\_ in  
(reside/am employed)

\_\_\_\_\_ County at \_\_\_\_\_  
(complete address)

On \_\_\_\_\_, 19\_\_\_\_, I deposited in the mail at  
\_\_\_\_\_ a copy of the  
(place, e.g., name of city or county)

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:

\_\_\_\_\_ at:  
(name of officer sought to be recalled)

\_\_\_\_\_ (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 RECALL

TO THE HONORABLE (See note<sup>1</sup>),  
Pursuant to the California Constitution and California election laws, we the undersigned registered and qualified electors of the (See note<sup>2</sup>) of (See note<sup>3</sup>), California, respectfully state that we seek the recall and removal of (See note<sup>4</sup>), holding the office of (See note<sup>5</sup>), in (See note<sup>2</sup>), California.  
We demand an election of a successor to that office. (See note<sup>6</sup>)  
The following Notice of Intention to Circulate Recall Petition was served on (Date) to (See note<sup>4</sup>).

(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 note<sup>2</sup>) of (See note<sup>3</sup>), California.

Column must be at least 1" wide

	PRINT YOUR NAME 1.	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY	ZIP
	PRINT YOUR NAME 2.	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY	ZIP
	PRINT YOUR NAME 3.	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE AS REGISTERED TO VOTE	CITY	ZIP

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

I, (See Note<sup>7</sup>) declare:  
1. My residence address is (Street Address),  
(City), in (County), County,  
California, and I am a registered voter in (See note<sup>2</sup>);  
2. I personally circulated the attached petition for signing;  
3. I witnessed each of the appended signatures being written on the petition and to my best information and belief, each signature is the genuine signature of the person whose name it purports to be; and  
4. The appended signatures were obtained between the dates of (Starting Date) and (Ending Date), inclusive.

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

Executed on (Date) at (City or Community Where Signed), California.<sup>8</sup>

SIGNED \_\_\_\_\_

<sup>1</sup> Insert here - Secretary of State of California if for a state officer, or name of the appropriate governing body if local. The authority which orders or "calls" elections for that office, or the governing authority for that jurisdiction should be named.

<sup>2</sup> Insert Electoral Jurisdiction here - County, City, District name, as appropriate.

<sup>3</sup> Insert geographical location here - City, County, etc., as appropriate.

<sup>4</sup> Insert here - name of person whose recall is being sought.

<sup>5</sup> Insert here - name of office.

<sup>6</sup> In case of Supreme Court or Appellate Court Justice, request shall be that the Governor appoint a successor.

<sup>7</sup> Insert here - Full name of person who gathered signatures.

<sup>8</sup> 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 petitions be printed on 8 1/2" x 14" paper in order to maximize the number of signature spaces printed on a sheet of paper.