GUIDE TO RECALL

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

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This guide was developed in an effort to provide answers to questions frequently asked of the Monterey County Elections Department concerning recall petitions. It is for general information only and does not have the force and effect of law, regulation or rule. In case of conflict, the law, regulation or rule will apply. Persons using this guide must bear full responsibility to make their own determinations as to all legal standards and duties.
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I. INTRODUCTION

**IMPORTANT:** Due to the complexity of the recall process, all parties involved are advised to seek private legal counsel. Do not rely on a previously “accepted” Notice of Intention or petition formats as laws may have changed.

1. Use of this Guide

This guide is intended to provide basic information about the recall process for county, school district, special district, and local judicial offices.

For recall of **city** officeholders, contact the city clerk of that city’s office directly.

For recall of **state** officeholders, see the “Procedure for Recalling State and Local Officials” published by the California Secretary of State located on their website at: 

**Federal** officeholders are not subject to recall.

This guide should be used in conjunction with:

- The attached flow chart (See Appendix A) titled, “Qualifying a Recall for the Ballot”, which shows the process of preparing, circulating, and filing a recall petition, and continuing through qualifying and calling an election.

- The “Procedure for Recalling State and Local Officials” (current version), published by the California Secretary of State.

- The applicable sections of the California Elections Code and Government Code, California Constitution, etc.

Except as otherwise specified, code sections referred to with the section number symbol (§) will be those of the California Elections Code.

Except as otherwise specified, references to the number of days means calendar days, as in “the incumbent’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 Recall and What Circumstances Justify it?

The California Constitution defines recall as “the power of the electors to remove an elective officer” (CA Const., Art. II, Sec. 13). Neither the California Constitution nor the California Elections Code says under what circumstances recall is justified. Instead, the Constitution says, in connection with recalls of state offices, “sufficiency of reason is not reviewable” (CA Const., Art. II, Sec. 14). The only language in the California Elections Code that has any bearing on this is in Elections Code §11024. Referring to the proponents’ statement of reasons for the recall and the incumbent’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” (Elections Code §11024).
3. Who Can Be Recalled?

Any elective office including an officer appointed in lieu of election or to fill a vacancy (Elections Code §11006), with the exception of federal office holders.

4. Circumstances Under Which a Recall is Prohibited

A recall may not be commenced if any of these apply (Elections Code §11007):

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

5. Who Conducts the Recall Election?

The elections official is responsible for the conduct of the recall process. Elections official means one of the following (Elections Code §11002):

(a) A county elections official in the case of the recall of elective officers of a county, school district, county board of education, community college district, or resident voting district, and of judges of trial courts.

(b) A city elections official, including, but not necessarily limited to, a city clerk, in the case of the recall of elective officers of a city.

(c) The secretary of the governing board in the case of the recall of elective officers of a landowner voting district or any district in which, at a regular election, candidate’s nomination papers are filed with the secretary of the governing board.

6. Who Can Initiate a Recall?

Those who initiate a recall are referred to as “proponents”. A proponent of a recall must be a registered voter of the jurisdiction and eligible to vote on the office of the incumbent they seek to recall (Elections Codes §§322, 11005).

7. Separate Nature of Each Recall

Each recall is a separate process and requires successful completion of the steps shown on the flow chart (See APPENDIX A). If, for example, there are three separate incumbents to be recalled, there must be three of each of the following (Elections Codes §§11021, 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 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.

8. Cost of a Recall

The cost of a recall election is charged to the government agency whose officials are sought to be recalled.
II. STARTING THE RECALL

1. Preparing the Notice of Intention

The initial step for proponents interested in the recall of an elected office holder is the drafting of a Notice of Intention. The Notice of Intention consists of the following (Elections Code §11020):

- The name and title of the officer sought to be recalled.
- A statement of no more than 200 words expressing the reasons for the recall. (See APPENDIX B for word count guidelines)
- The printed name, signature, and residence address, including street and number, city, and ZIP Code, of each of the proponents. **Note:** If a proponent cannot receive mail at the residence address, he or she must also provide an alternative mailing address in addition to his/her residence address.
- The language contained in Elections Code §11023 informing the incumbent of his or her right to file an answer.

A sample Notice of Intention form is included as 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 (Elections Code §11020).

All proponents must be registered to vote in the jurisdiction and eligible to vote on the office of the incumbent they seek to recall (Elections Code §11005).

There is no provision for a proponent to withdraw his/her signature from the Notice of Intention once served and submitted.

2. Serving the Notice on the Incumbent

A **copy** of the Notice of Intention must be served on the incumbent sought to be recalled by personal delivery or by certified mail (Elections Code §11021).

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 incumbent having been served, along with an affidavit of time and manner of service (Elections Code §11021). See APPENDIX D and APPENDIX E for examples of affidavits used for personal delivery and certified mail, respectively.

A separate Notice of Intention shall be filed for each incumbent sought to be recalled (Elections Code §11021).

The affidavit of Proof of Service by Certified Mail (See APPENDIX E) attests to the date the Notice of Intention was mailed, the name of the incumbent sought to be recalled and his or her mailing address.
Elections will notify the Superintendent and/or district secretary of receipt of Notice of Intention.

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 incumbent whose recall is being sought (Elections Code §11022; Government Code §6000, et. seq.) 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 request and obtain from the newspaper a signed affidavit proving publication. This document will need to be filed with the county elections official later in the process (Elections Code §11042).

The publication need not include the information in Elections Code §11023, which informs incumbents who are the subject of recall of their right to file an answer to the notice of intention. All other parts of the Notice of Intention, including names and addresses of signers, must be published.

If publication is not possible, the Notice of Intention shall be posted in at least three public places within the jurisdiction of the incumbent whose recall is being sought (Elections Code §11022). 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. Incumbent’s Answer

The incumbent has the right to provide a response to the grounds for the proposed recall contained in the proponents’ Notice of Intention. Should he or she choose to do so, the response is limited to 200 words, and the original must be filed with the county elections official within seven (7) days after the filing of the Notice of Intention by the proponents (Elections Code §11023). It must be signed and shall be accompanied by the incumbent’s printed name and business or residence address.

Within that same seven (7) day period, the incumbent 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 (Elections Code §11023). There is no requirement that the incumbent file any proof of service with the county elections official.

Note to Proponents: In the event the incumbent’s answer is apparently not received by any proponent, contact the county elections official, since the incumbent’s answer must also be filed there under the same deadline. It is the proponents’ responsibility to verify with the county elections office whether or not an answer has been filed, prior to proceeding to the next step in the recall process.

6. Campaign Finance Reporting

Both recall proponents who organize to qualify a recall for the ballot, and those who organize to oppose such a recall effort will have campaign disclosure and filing obligations under state law. See SECTION X, PART 7 for additional information.
III. BUILDING THE PETITION

**Important:** Before proceeding with circulation of any recall petition, proponents are required to submit their petition’s design and format to the county elections official for its review and approval as to whether the petition conforms to the requirements of the California Elections Code §11042.

1. Overview

The language and design of the recall petition are strictly controlled by the California Elections Codes §§100, 100.5, 104, 11040, 11041, 11043, 11043.5 and 11046.

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 California Secretary of State on their website at: https://www.sos.ca.gov/elections/recalls/procedure-recalling-state-and-local-officials/.

2. Format of the Recall Petition

The recall petition format provided by the California Secretary of State or county elections official is mandatory and must be used (Elections Codes §§11041, 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 (Elections Code §11040).

**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 (Elections Codes §§100, 11043).

All petition sections must be printed in uniform size and darkness with uniform spacing (Elections Code §11041). See **APPENDIX G**.

On each page, in no less than 8-point type, there must appear (Elections Code §11041):

- 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.

**Note to Proponents:** The Notice of Intention to appear on the petition must be identical to that which was published, with the exception of the language related to the incumbent’s right to file an answer (Elections Code §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 incumbent’s answer, if any. If no answer was filed, the petition must so state.
Signature Space

Immediately above the signatures 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, i.e. Central Fire Protection District] of [insert name of geographical location, i.e. County of Monterey], 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 (Elections Code §11047).

The petition must be designed so that each signer can personally affix his or her (Elections Code §11043):

- printed name;
- signature;
- residence 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 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.

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 (Elections Code §104):

- printed name of the circulator;
- residence 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.

The declaration must also include (Elections Code §§104, 11046):

- 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 18 years of age or older (Elections Code §102); 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 his or her signature.

3. Filing of Blank Copies of 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 incumbent’s answer, if any. If no answer was filed, the copies are due within ten (10) days after the deadline for the incumbent to file an answer (Elections Code §11042).

The affidavit attesting to the proof of publication (or posting, as applicable) of the Notice of Intention is due at this same time (Elections Code §11042).

4. Review and Approval of Petition Format

The county elections official has ten (10) days to review the petition format upon receipt, and notify the proponents in writing that the petition is either approved for circulation or requires modification (Elections Code §11042).

If changes are necessary, proponents have ten (10) days to file two blank copies of the corrected petition with the county elections official. This process shall be repeated until no further alterations are necessary (Elections Code §11042).
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 have been approved by the county elections office as meeting the requirements of the Elections Code §11042(d). The time period available for circulating the petition is measured from when the county elections office notifies the proponents that the petition meets the form and wording requirements (Elections Code §11220).

2. 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, as follows (Elections Code §11220):

<table>
<thead>
<tr>
<th>Registration</th>
<th>No. of Days to Circulate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1,000</td>
<td>40</td>
</tr>
<tr>
<td>1,000 – 4,999</td>
<td>60</td>
</tr>
<tr>
<td>5,000 – 9,999</td>
<td>90</td>
</tr>
<tr>
<td>10,000 – 49,999</td>
<td>120</td>
</tr>
<tr>
<td>50,000 and above</td>
<td>160</td>
</tr>
</tbody>
</table>

3. 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, as follows (Elections Code §11221):

<table>
<thead>
<tr>
<th>Registration</th>
<th>Signatures Needed (as % of Total Registered Voters)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 1,000</td>
<td>30%</td>
</tr>
<tr>
<td>1,000 – 9,999</td>
<td>25%</td>
</tr>
<tr>
<td>10,000 – 49,999</td>
<td>20%</td>
</tr>
<tr>
<td>50,000 – 99,999</td>
<td>15%</td>
</tr>
<tr>
<td>100,000 and above</td>
<td>10%</td>
</tr>
</tbody>
</table>

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

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 (Elections Codes §§103, 11303).
The written request must identify the subject recall petition – and 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 the recall petitions. Consequently, it will not be able to advise persons who wish to withdraw their signatures as to 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?

Any person that is 18 years of age or older (Elections Code §102).

2. Who Can Sign?

Only registered voters of the electoral jurisdiction of the officer sought to be recalled are qualified to sign a recall petition for that officer (Elections Codes §§322, 11045). Each signer must personally sign and print his or her name and residence address – giving street and number or, if no street and number exists, an explanation of how to locate place of residence (Elections Codes §§100, 322, 11045).

A voter physically unable to sign a petition may request someone else to print the voter’s name and residence address on the petition (Elections Code §100.5). The voter then must personally place his or her mark or signature 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 (Elections Code §100.5; Government Code §16). According to the California Secretary of State’s legal counsel, 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 (Elections Code §11047). 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 (Elections Code §11047 and SECTION III, PART. 2(B) of these guidelines).

3. 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 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 (Elections Code §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 the signature, these newly completed registration card’s affidavit number and notifies the election’s 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 county elections official within three (3) days, excluding Saturdays, Sundays, and holidays, of receipt from the voter (Elections Code §2138).

4. Circulator Must Complete and Sign Declaration of Circulator

The circulator must personally affix – in their 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 (Elections Codes §§104, 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 (Elections Codes §§100, 105, 321, 359):

- the signer is not a registered voter
- the signer is not eligible to vote on the office held by the incumbent whose recall is being sought.
- the signer has moved and did not re-register
- the signer uses a PO Box number or other mailing address for 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).
- the residence address appearing on the petition was “pre-printed” and not written in personally by the signer.
- the signer’s signature does not compare to the voter’s signature on his or her voter registration card on file with the county elections official.
- the printed information (name, address) are not written in by the signer (i.e., a spouse wrote in the address for the other spouse)
- the signer prints his/her name for the signature (unless registered as such)
- the signer uses ditto marks for an address
- the signer authorizes Power of Attorney to sign on his or her behalf
- incomplete address/missing city and zip code
- used white out on signer information line

Certain defects in the declaration of the circulator, such as failure of the circulator to sign the declaration (Elections Codes §§104, 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” in 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 California 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, it is suggested printing the recall petitions on lightly-tinted colored paper with a different color for each office.


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

It is a misdemeanor for anyone circulating a recall petition to intentionally misrepresent or intentionally 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 inquires 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 (Elections Code §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 (Elections Code §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 (Elections Code §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 (Elections Code §18650).

Provisions Relating to Fraudulent Signatures

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

Anyone who circulates or causes to be circulated a recall petition knowing it to contain false, forged, or fictitious names in 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 (Elections Code §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 (Elections Code §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 (Elections Code §18613).

Every person who files in the office of the election 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 in a county jail not exceeding one year, or by both the fine and imprisonment (Elections Code §18614).

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 (Elections Code §18630).
VI. FILING THE RECALL PETITION

1) Submit your petitions to the elections’ office by the deadline as discussed in the Number of Days to Circulate Petition section.

2) The petitions must be filed during normal business hours. The elections office is open Monday through Friday from 8:00 a.m. to 5:00 p.m.

3) The petition must be filed by a proponent or an individual who has been authorized by a proponent, in writing, to file the petition. A copy of the authorization must be included with the filing (Elections Code §11222(a)).

4) All sections of the petition circulated in a single county must be filed at the same time. Each section of the petition must be filed with the elections’ official in the jurisdiction for which it was circulated.

5) The filer is to provide the number of sections (pages in a single petition) and the number of signatures (raw count). The elections office recommends that the petitions be separated in stacks reflecting the number of signers on each petition. This assists to determine whether the number of signatures, on its face, is equal to or in excess of the minimum number of signatures required. If so, the elections office shall accept the petition for filing and be deemed as filed on that date. If the number is less than the minimum required, the petition will not be accepted for filing and will be returned to the proponents (Elections Code §11222(b)).

6) The elections office will provide a petition receipt that the filer will complete with the proponent’s information.

7) The elections will provide the proponents the last day that the elections office has to verify the signatures (30 days, excluding Saturdays, Sundays, and holidays).

Tip to Prepare for Filing:
Completely **black out** signature information of any duplicate signature or signature line that does not qualify (i.e. the signer provided incomplete or fictitious information).
VII. VERIFICATION OF PETITION SIGNATURES

There are two types of signature verification techniques: 100% or random sampling.

100% Verification of Signatures

- The elections office must verify every signature submitted if less than 500 signatures are submitted.

- The elections official has 30 days (excluding Saturdays, Sundays, and holidays) from the date of filing of the petition to determine whether the petition is signed by the required number of voters, certify the results of the examination, and notify the proponents (Elections Code §11224).

Random Sampling Verification of Signatures

- If more than 500 signatures are submitted, then the ROV may choose to use a random sampling signature verification. The random sampling shall include an examination of at least 500 or 5% of the signatures submitted, whichever is greater.

- If the random sampling technique is used, the ROV must complete the examination of the sample of signatures within 30 days (excluding Saturdays, Sundays, and holidays) of the filing of the petition.

After the random sampling is completed, can a 100% verification be done?

- If the random sampling shows that the number of valid signatures is within 90% to 110% of the number of signatures needed, the ROV must examine and verify each signature filed (Elections Code §11225).

- If the result of this complete examination shows that the petition has the required number of signatures, the ROV must certify the results of the examination to the governing body at its next regular meeting.

- If the number of valid signatures is less than the required number, the ROV shall certify the petition to be insufficient and no further action should be taken on the petition.

What happens if the random sampling determines that the number of valid signatures is over 110% of the number of signatures needed?

- The petition is considered qualified without further verification, and the elections office must certify the results of the examination to the governing board at its next regular meeting (Elections Code §11225).
VIII. CERTIFYING 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 (Elections Code §11226).

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

2. Sufficient Number of Valid Signatures

If the petition is found to have sufficient 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 (Elections Code §§11224, 11225). The certificate shall contain (Elections Code §11227):

- name of officer whose recall is sought;
- title of his or her 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.

3. Access to Recall Petitions

In general, Government Code §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. If it is determined that the recall petition is insufficient, the challenged signatures may be examined by the proponents within 21 days of the petition being found insufficient.
IX. RESIGNATION OF OFFICEHOLDER

If the incumbent 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 (Elections Code §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 the election (Elections Code §11240).

If the governing body fails to act within those 14 days, the county elections official shall call for the election within five days (Elections Date §11241).

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 (Elections Code §11328). One election is sufficient for the recall of several officers (Elections Code §11329).

If the recall is to be voted on by voters in more than one county, the county 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 (Elections Code §11241).

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

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

2. Filing Requirement for Candidates

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

The nomination period must not open before the day the order of election is issued and must close not 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, that shall be done by the 71st day prior to the election (Elections Code §11381(b)).

The incumbent may not be a candidate to succeed himself or herself or any other member of the same governing board that is also the subject of recall (Elections Code §11381(c)), but he or she may submit a candidate statement for publication in the voter information guide (Elections Code §§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 (Elections Code §11381(b)), the nomination period will consist of just 13 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 (Elections Code §11381). Check with the county elections official regarding this requirement.
There are no filing fees for school or special district office. Filing fees for County Supervisor and countywide office are based on 1% of the official’s annual salary (Elections Code §8104(b)).

**Petitions In-Lieu of Filing Fee**

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 against the fee (Elections Code §8106).

**Candidate Qualifications**

In addition to filing nomination documents (Declaration of Candidacy and Nomination Petition), each candidate may have to provide documentation of his or her qualifications (Elections Code §13.5).

**Candidate Statements**

Candidates’ Statements of Qualifications for publication in the voter information guide are optional. The estimated costs 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 (Elections Code §13307(a)(2)).

The incumbent whose recall is being sought may also submit a candidate statement for inclusion in the voter information guide (Elections Code §11327). Statements must be filed to no later than 5:00 p.m. on the last day of candidate filing.

- **Note to elections official:** Notify incumbent of his or her right to submit a candidate statement and 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 (Elections Code §13311).

**3. Voter Information Guide**

The voter information guide shall include both the grounds for the recall (from the Notice of Intention) 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 (Elections Code §11325).

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 (Elections Code §11325).

**4. The Voter’s Responsibility While Voting in a Recall**

Previous law (Elections Code §11382) that required voters to vote either “Yes” or “No” on the question of recall in order for a vote for a candidate running to succeed to the office to be counted was repealed in 2004.
5. Majority Vote Required to Recall the Incumbent

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

6. Plurality Vote to Elect a Successor

If the incumbent is recalled, the candidate receiving the greatest number of votes shall be elected to the incumbent’s unexpired term. There is no runoff election (Elections Code §11385).

If the candidate with the highest number of votes fails to qualify within ten (10) 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 (Elections Code §11386).

7. Campaign Finance Reporting Requirements

Both the recall proponents who organize to qualify a recall for the ballot and those who oppose a recall effort – as well as candidates – 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.

For more information, please contact the California Fair Political Practices Commission (FPPC), which enforces the Political Reform Act, below:

<table>
<thead>
<tr>
<th>Fair Political Practices Commission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone Number: (916) 322-5660</td>
</tr>
<tr>
<td>Address: 1102 Q Street, Suite 3000</td>
</tr>
<tr>
<td>Sacramento, CA 95811</td>
</tr>
<tr>
<td>Website: <a href="http://www.fppc.ca.gov">www.fppc.ca.gov</a></td>
</tr>
<tr>
<td>Email: <a href="mailto:Advice@fppc.ca.gov">Advice@fppc.ca.gov</a></td>
</tr>
</tbody>
</table>

**NEW! Ordinance Requiring Electronic Filing of Campaign Statements**

On October 3, 2017, the Monterey County Board of Supervisors adopted an ordinance amending Chapter 1.10 of the Monterey County Code authorizing and requiring electronic filing of campaign disclosure statements, reports, and other documents with the Registrar of Voters of Monterey County. All elected officers, candidates, committees, or other persons for whom the Registrar of Voters is the filing officer will be required, with few exceptions, to file campaign disclosure statements, reports, and other required documents electronically.

The adopted ordinance authorizes and will require electronic filing of the following documents:

<table>
<thead>
<tr>
<th>FPPC forms required to be filed electronically:</th>
</tr>
</thead>
<tbody>
<tr>
<td>460 – Recipient Committee Campaign Statement</td>
</tr>
<tr>
<td>461 – Major Donor and Independent Expenditure Committee Campaign Statement</td>
</tr>
<tr>
<td>496 – Independent Expenditure Report</td>
</tr>
<tr>
<td>497 – Contribution Report</td>
</tr>
<tr>
<td>450 – Recipient Committee Campaign Statement – short form</td>
</tr>
</tbody>
</table>
The few exceptions include:

<table>
<thead>
<tr>
<th>FPPC forms that will be accepted in a paper format:</th>
</tr>
</thead>
<tbody>
<tr>
<td>501 – Candidate Intention Statement</td>
</tr>
<tr>
<td>410 – Statement of Organization Recipient Committee</td>
</tr>
<tr>
<td>425 – Semi-Annual Statement of No Activity</td>
</tr>
<tr>
<td>470 – Officeholder and Candidate Campaign Statement – short form</td>
</tr>
<tr>
<td>700 – Statement of Economic Interests</td>
</tr>
</tbody>
</table>

The filing system, NetFile, is a web-based filing system that allows individuals to electronically track contributions and expenditures and submit campaign statements. Alternatively, most third-party campaign accounting systems will produce an electronic file that you may upload to NetFile and use to file your statements electronically.

A kiosk is available at the Monterey County Elections office to file, view and print nonredacted statements. In addition, one-on-one trainings are available.
XI. AFTER THE ELECTION

1. 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 (6) months of that election nor during the last six (6) months of the official’s term of office (Elections Code §11007).

2. 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 an election for a subsequent term of office.
XII. APPENDICIES

Appendix A: *Flow Chart – Qualifying a Recall for the Ballot*

Steps and Timeframes Involved in Preparing and Circulating the Recall Petition

Proponents serve incumbent by personal delivery or certified mail with COPY of Notice of Intention. (E.C. 11021)

within 7 days

Proponents file with Office of the County Elections Official the ORIGINAL Notice of Intention and proof of service. (E.C. 11021)

within 7 days

Incumbent files answer with Office of the County Elections Official and serves copy to proponents. (E.C. 11023a)

No timeframe specified

10 days after filing of incumbent's answer or, if no answer filed, 10 days after expiration of 7-day deadline for filing (E.C. 11042)

Proponents publish Notice of Intention (except for language of E.C. 11023) one time only in a newspaper of general circulation at their expense, or if publication is not possible, post in at least three places within jurisdiction. (E.C. 11022)

within 10 days

Proponents file with Office of the County Elections Official two blank copies of proposed format for recall petition and proof of publication, or affidavit of posting, of Notice of Intention.

within 10 days

Office of the County Elections Official notifies proponents of findings as to whether form and wording of petition meets requirements of Election Code. (E.C. 11042)

within 10 days

Proponents or authorized representative file all petition sections at same time. Office of the County Elections Official counts number signatures on face of petition – the “raw count.” (E.C. 11222)

Number of signatures prima facie (on their face) meets requirements.

30 days to check signatures (E.C. 11225)

Office of the County Elections Official finds signatures on petition sufficient and certifies to Governing Body at next regular meeting. (E.C. 11227)

Office of the County Elections Official finds signatures on petition are insufficient. Certifies insufficiency and notifies proponents with copy to district. Petition remains on file. (E.C. 11224 & 11226)

Office of the County Elections Official retains petitions for eight months from final exam of petition. (E.C. 17400)

Proponents must begin exam within 21 days of certification insufficiency. (E.C. 11301)

(G.S. 6235.5)

Office of the County Elections Official does not file petition and returns petition to proponents. (E.C. 11222)

Office of the County Elections Official notifies proponents that petition format meets requirements of Election Code and authorizes them to circulate petitions. (E.C. 11042 & 11220)

Circulation Period: number of days and number of signatures required depends on number of registered voters in jurisdiction. (E.C. 11220 & 11221)

Written requests to withdraw signatures must be filed no later than day before petition is filed (E.C. 103, 11303)

Proponents file two corrected copies of form and wording of recall petition. (E.C. 11042)

within 10 days

Office of the County Elections Official finds signatures on petition are insufficient. Certifies insufficiency and notifies proponents with copy to district. Petition remains on file. (E.C. 11224 & 11226)

88-125 days from issuance of order calling election (E.C. 11242)

Date of Recall Election

Governing Body calls for election. (If, however, the Governing Body fails to act within 14 days, Office of the County Elections Official shall call the election.) (E.C. 11240)
# Appendix B: Word Count Guidelines

<table>
<thead>
<tr>
<th>Punctuation</th>
<th>Punctuation is not counted.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Titles</strong></td>
<td>Words used by the Elections Department as part of a standardized heading, such as “Argument in Favor of Measure Z” or “Statement of Candidate for Mayor” are not counted.</td>
</tr>
<tr>
<td><strong>Cities/Counties</strong></td>
<td>All geographical names shall be counted as one word. For example, “Monterey County”, “City of Salinas”, “County of Santa Cruz”, and “City and County of San Francisco” are considered one word. The names of school districts, special districts and political subdivisions are considered geographical names as well. For example, “North County Fire Protection District” and “Monterey Peninsula Community College District” are each one word.</td>
</tr>
<tr>
<td><strong>Proper Nouns</strong></td>
<td>All proper nouns, including geographical names, shall be considered as one word; for example, “City and County of San Francisco” or “Salinas High School” shall be counted as one word. (Generic location terms such as “North County” or “South County” do not constitute proper nouns and each word will be counted separately)</td>
</tr>
<tr>
<td><strong>Abbreviations</strong></td>
<td>Each abbreviation for a word, phrase, or expression shall be counted as one word.</td>
</tr>
<tr>
<td><strong>Hyphenations</strong></td>
<td>Hyphenated words that appear in any generally available U.S. dictionary published in the last 10 years shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word. Elections has a dictionary on hand and will reference this dictionary as the deciding factor.</td>
</tr>
<tr>
<td><strong>Dates</strong></td>
<td>Dates consisting of a combination of words and digits shall be counted as two words. Dates consisting of only a combination of digits shall be counted as one word. “October 29, 2007”, shall be counted as two words, whereas “10/29/2007” will be counted as one word.</td>
</tr>
<tr>
<td><strong>Numbers</strong></td>
<td>Any number consisting of a digit or digits shall be considered as one word (i.e. “100”). Any number that is spelled shall be considered as a separate word (“one hundred” is two words).</td>
</tr>
<tr>
<td><strong>Phone &amp; Internet</strong></td>
<td>Website addresses or telephone numbers are one word.</td>
</tr>
</tbody>
</table>

The following word combinations are often erroneously assumed to count as one word:

- ✓ Office titles (e.g., City Councilmember = two words)
- ✓ Idioms used to describe geographic locations (e.g., North County = two words)
- ✓ Governing body (e.g., Board of Directors = three words)
- ✓ Names of Schools (e.g., Salinas High School = three words)
Appendix C: Sample Notice of Intention Form

NOTICE OF INTENTION TO CIRCULATE RECALL PETITION

TO THE HONORABLE ____________________________
(name of officer sought to be recalled)

Pursuant to Section 11020, California Elections Code, the undersigned, registered qualified voters of ____________________________ 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 ____________________________, in ____________________________, California, and to demand election of a successor in that office. 2

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 10, however, more than 10 may be required by law.)

Name Address Signature

1. ____________________________ ____________________________

2. ____________________________ ____________________________

3. ____________________________ ____________________________

... 10. (or more, see Footnote 5)

Telephone number to contact proponents (optional): ____________________________ 4

The original Notice of Intention and the proof of service will be filed with the County Elections Official. 5

Elections Code section 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, with names and addresses, by the proponents and proof of publication must be filed at the time of filing two blank copies of the petition with the elections official. The ORIGINAL Notice of Intention, published version, and blank copies of the recall petition will be compared and reviewed for legal compliance by the elections official. ANY DEVIATION from the original text of the Notice of Intention, including punctuation, capitalization, and abbreviations, may result in rejection of the petition.

2 If it is a recall of an Appellate Court Justice, the request shall be that the Governor appoint a successor to the office.

3 The Notice must be signed by at least 10 proponents or the number needed to nominate the candidate to the office – whichever is greater. Check with the elections official to determine the actual number.

4 Provision of a telephone number is optional. If no number is provided, leave this line off of the Notice.

5 For recalls of incumbents other than county officers, the filing is with the Secretary of State, City Clerk, Secretary of District, as appropriate.
Appendix D: Sample Affidavit of **Proof of Personal Service**

**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 __________________________ a.m./p.m.
(date) (time) (circle one)

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

I, ________________________________, declare under penalty of perjury 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: Sample Affidavit of Proof of Service by Certified Mail

PROOF OF SERVICE BY CERTIFIED MAIL

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)

On ________________________, I deposited in the mail at ________________________ a copy of the Notice of Intention to Recall ____________________________ 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 Recall to this Proof of Service.

I, ____________________________, declare under penalty of 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: Sample Recall Petition Form

![Sample Recall Petition Form](image)

---

**Important Notes:** When printing the Notice of Intention (200 words or less) on the petition, it must appear exactly as written on the original Notice, including punctuation, spelling, etc. and it must contain the names of at least 10 recall proponents. It may differ from the original Notice in the following ways:

1. It does not have to contain more than 10 names even if a larger number was required on the original notice;
2. It does not include the proponents' addresses;
3. It does not have to include the paragraph regarding the incumbent's right to file an answer.

---

Each of the undersigned states for himself/herself that he or she is a registered and qualified elector of the (insert electoral jurisdiction) of (insert name of city or county), California.

<table>
<thead>
<tr>
<th>Print Your Name</th>
<th>Residence Address ONLY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Your Signature as Registered to Vote</td>
<td>City</td>
</tr>
<tr>
<td>Print Your Name</td>
<td>Residence Address ONLY</td>
</tr>
<tr>
<td>Your Signature as Registered to Vote</td>
<td>City</td>
</tr>
<tr>
<td>Print Your Name</td>
<td>Residence Address ONLY</td>
</tr>
<tr>
<td>Your Signature as Registered to Vote</td>
<td>City</td>
</tr>
<tr>
<td>Print Your Name</td>
<td>Residence Address ONLY</td>
</tr>
<tr>
<td>Your Signature as Registered to Vote</td>
<td>City</td>
</tr>
</tbody>
</table>

Each petition section shall have attached to it an affidavit to be completed by the circulator. §104,11046. This declaration below may be omitted on front side if signature spaces are provided on both sides. The circulator's declaration must follow the last signature block. All other information above must be included on both sides.

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

[Signature] 

I, [Name], solemnly swear (or affirm) all of the following:

1. That I am 18 years of age or older.
2. My residence address, including street and number is, [Address] (if no street number exists, a designation of my residence adequate to readily ascertain its location is, [Designation]).
3. That the signatures on this section of the petition form were obtained between _[Month and Day]_, 25, and _[Month and Day]_, 29, that I circulared the petition and I witnessed the signatures on this section 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.

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.

City or Community Where Signed

Circulator's Signature

---

Petition must have ½ inch margin on bottom. §1104(b)

Proponents may insert a return address and deadline here.
Appendix G: Format Rules for Petition

All petition sections must be printed in uniform size and darkness with uniform spacing (Elections Code §11041).

In an effort to ensure that the proponents’ Notice of Intention and the Answer filed by the person whose recall is being sought are equally featured on the petition, the following format rules will apply:

1) To ensure uniformity of size, darkness, and spacing, do not use bullets, CAPITALIZATION, bolding, or underlining in the Notice of Intention and the Answer.

2) Use of any attributes must be applied equally to the Notice of Intent and the Answer when printed on the petition. Attributes used in the filed Notice of Intention or the Answer may be removed on the petition to ensure uniformity.

3) Each side of a sheet of paper on which signatures appear must include, in no less than 8-point type:
   a. A request that an election be called to elect a successor to the office.
   b. A copy of the Notice of intention, including the statement of reasons for recall, and the names (no addresses) of at least ten proponents. The text of Elections Code §11023 does not need to be included as part of the language of the Notice of intention on the petition.
   c. The answer, if any, of the officer sought to be recalled. If the officer has not answered, the petition must so state.

4) When printing the proponent’s names on the petition, the names must be typed, following the format of the printed name on the Notice of Intention. For example, if no period is provided after the middle initial, then do not print a period on the petition. Names may be separated by a semi-colon and no signature mark (s/) is necessary since the line that precedes the names announces them as proponents.

5) Following the answer, the proponents must type the name of the officer who filed the answer as follows: “s/Name”, to designate it as the person’s signature. Following the name and separated by commas, the proponents must print the incumbent’s contact information provided on the answer, including address, phone numbers, e-mail addresses, etc.

6) No additional verbiage may be added to the petition that is not explicitly authorized on the Sample Petition.

7) Grammatical errors, punctuation, and spelling errors on the filed Notice of Intention and Answer, will NOT be corrected. Such statements will be printed as filed.

8) Corrections will be made to the opening paragraph, signature spaces, and affidavit of circulator to meet the requirements of law.

9) The elections official reserves the right to enact other rules that would ensure the equal presentation of both sides of the recall question and any attempts to draw special attention to one area of the petition over others will not be permitted.